

PARIS CITY COMMISSION
PUBLIC HEARING

ORIGINAL

SPECIAL MEETING
VOLUME II

A disciplinary hearing concerning **KEVIN ANDERSON, ABDULLAH BHOLAT, JON L. HUMPHRIES, ROBERT PUCKETT AND J.P. PRIMM** was held before Rebecca Fella, Registered Professional Reporter and Notary Public in and for the Commonwealth of Kentucky at Large, at the Paris City Commission Chambers, 525 High Street, Paris, Kentucky, on Wednesday, February 24, 2016, beginning at the hour of 3:00 p.m.

ACTION COURT REPORTERS
116 Mechanic Street
Lexington, Kentucky 40507
(859) 252-4004

1 **APPEARANCES**

2
3 **COUNSEL FOR THE CITY OF PARIS AND POLICE CHIEF**
4 **ROBERT WILLIAMS:**

5 Patsey E. Jacobs
6 Bryan H. Beauman
7 Sturgill, Turner, Barker & Moloney, PLLC
8 333 West Vine Street, Suite 1500
9 Lexington, Kentucky 40507

10 **COUNSEL FOR THE POLICE OFFICERS:**

11 Luke Morgan
12 Daniel E. Whitley, Senior
13 McBrayer, McGinnis, Leslie & Kirkland, PLLC
14 201 East Main Street, Suite 900
15 Lexington, Kentucky 40507

16 **COUNSEL FOR THE CITY:**

17 Robert Temple Juett
18 Law Office of Robert Temple Juett
19 208 South Broadway
20 Georgetown, Kentucky 40324

21 **ALSO PRESENT:** Michael E. Thornton, Mayor
22 Wallis Brooks, Commissioner
23 Tim Gray, Commissioner
24 Stan Galbraith, Commissioner
25 Matt Perraut, Commissioner
John Plummer, City Manager
Rob Williams, Police Chief
Kevin Anderson
Abdullah Bholat
Jon L. Humphries
Robert Puckett
J.P. Primm

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1 MAYOR THORNTON: We'll call this
2 hearing to order. Mr. Plummer, if you could have the
3 roll call, please.

4 MR. PLUMMER: Yes, sir. Commissioner
5 Perraut?

6 COMMISSIONER PERRAUT: Here.

7 MR. PLUMMER: Commissioner Gray?

8 COMMISSIONER GRAY: Here.

9 MR. PLUMMER: Commissioner Brooks?

10 COMMISSIONER BROOKS: Here.

11 MR. PLUMMER: Commissioner Galbraith?

12 COMMISSIONER GALBRAITH: Here.

13 MR. PLUMMER: And Mayor Thornton?

14 MAYOR THORNTON: Here.

15 MR. PLUMMER: We have a quorum, ready
16 to conduct business.

17 MAYOR THORNTON: Mr. Juett, if you
18 could make a few announcements, we would appreciate it.

19 MR. JUETT: Thank you, Mayor. I want
20 to start off by offering an apology and my thanks to
21 everyone involved -- Commissioners, the officers, the
22 media, the public, everyone -- for rescheduling this for
23 3:00 today.

24 The mistake was mine. I was focused
25 on the open meetings requirements and not focused on my

1 own schedule, so I really appreciate the rescheduling
2 and everyone agreeing and cooperating to do that, so
3 thank you for that.

4 I will say that what we'd like to do
5 is, once we get started, at -- if we're not finished by
6 6:00, we take a break for dinner at that time, and we
7 can gauge how long you want to take at that time.

8 And then the other thing is, I know
9 there are some people in the hallway. Again, as
10 yesterday, hopefully you can hear and you should be able
11 to see through the glass.

12 If you have any problems hearing,
13 please let Lieutenant Thomas know, who is at the door,
14 and we'll try to get that fixed for you.

15 So with that, Mayor, I turn it back
16 over to you.

17 MAYOR THORNTON: All right. Pursuant
18 to KRS 15.520 and as requested by the individuals below,
19 which is Kevin Anderson, Abdullah Bholat, Jon Humphries,
20 Robert Puckett and J.P. Primm, a public hearing
21 regarding disciplinary charges against the City of Paris
22 employees is what we're here for.

23 I think we left off with Mr. Morgan.
24 I don't know if there's a certain protocol.

25 MR. JUETT: Just in terms of

1 approaching the witness, Mr. Morgan, if you -- if you
2 have documents to offer to the witness, if you would,
3 you may approach him for that, but if you're not
4 approaching him for that purpose, if you would mind not
5 approaching the witness. Okay?

6 MR. MORGAN: Okay.

7 MR. JUETT: Thanks.

8 MR. WHITLEY: If you all don't mind, I
9 have something to address. I think the last time we
10 were here my colleague started to cross examine
11 Mr. Williams on retaliation on shifting from a ten-hour
12 shift to a twelve-hour shift. There was an objection
13 make that said it was not relevant.

14 I want to address this because we want
15 to put on a good defense. For purposes of the
16 hearing --

17 MR. JUETT: Well, what are you going
18 to address? Are you --

19 MR. WHITLEY: I want to make a motion
20 to allow us to do that, if you don't mind.

21 MR. JUETT: And that's overruled.
22 We've already ruled on that issue.

23 MR. WHITLEY: Can I make a better
24 preservation for the record what our objection is?

25 MR. JUETT: Yes.

1 MR. WHITLEY: The Rules of Evidence in
2 these proceedings are lax, but these hearings are based
3 on due process and a fair -- notion of fair play.

4 COURT REPORTER: I'm sorry; could you
5 say that again?

6 MR. WHITLEY: Due process and fair
7 play.

8 Now, in these proceedings the chief
9 has made a recommendation both of his opinion on the
10 officers' behavior and his opinion on whether they could
11 be counseled or not in these proceedings. That's his
12 subjective belief, and we are allowed to cross examine
13 him on that.

14 The Rules of Evidence are very
15 clear -- even when relaxed -- a person's bias and motive
16 as to why they have those opinions are always relevant
17 evidence.

18 The objection made was that it was not
19 relevant. We argue that it was relevant. It goes to
20 the chief's bias and his motives of why he's making the
21 recommendation he's making -- number one, that these
22 officers are ill equipped to stay on the force, and
23 number two, that they should lose their job for it.

24 I believe that the Rules of Evidence
25 always say these rules and that evidence is applicable.

1 Now, while the rules are relaxed, it doesn't say that --
2 there's no case that says that evidence is inadmissible.

3 When we made that argument I think
4 there was a case that was cited that said it is
5 inadmissible. We need a chance to review it, but I do
6 have the case -- I think it was Stallins?

7 MS. JACOBS: No.

8 MR. WHITLEY: The case is what?

9 MS. JACOBS: Gilberson versus City of
10 Ludlow, 2015 Court of Appeals.

11 MR. MORGAN: What's the cite, Patsey?

12 MS. JACOBS: It's a West Law cite,
13 2015 West Law 1880755.

14 MR. MORGAN: So it's not a final
15 decision?

16 MS. JACOBS: It is a final decision.

17 MR. MORGAN: It's not a published
18 decision?

19 MS. JACOBS: It's not a published
20 decision. It is a final decision.

21 MR. WHITLEY: I don't know the -- the
22 facts of that case. We -- we -- I didn't get a copy of
23 it when the argument was made.

24 But the fact is true that a person's
25 motive and bias and why they make the recommendations

1 they're making is always relevant, and as part of our
2 defense, we have a right -- through due process -- a
3 right to put on a defense.

4 Our defense is, number one, that they
5 were retaliated against, and number two --

6 MS. JACOBS: I'm going to object at
7 this point. It's -- I mean, we're playing for the media
8 at this point. It's been argued. It's been overruled.

9 MR. WHITLEY: Well, ma'am, that's --

10 MS. JACOBS: The case law is very
11 clear.

12 MR. WHITLEY: I'm not --

13 MR. JUETT: You've preserved your
14 objection.

15 MR. WHITLEY: Yeah, but I'm not
16 playing for the media.

17 MR. JUETT: Well, and I understand and
18 I'm not characterizing it that way. What I'm saying is,
19 though, that you're standing up here making an argument
20 about this evidence, what it means and -- as though
21 you're -- you're cross examining the officer on it.

22 I think you preserved the objection.
23 We dealt with this yesterday as well. Mr. Morgan was
24 also able to tell the Commission why he thinks it ought
25 to come in, but we overruled the motion and the evidence

1 is not going to be allowed in.

2 So if you're preserving your
3 objection, it's been preserved, and you get a de novo
4 hearing on appeal anyway, so --

5 MR. MORGAN: We would like to think
6 that decision hasn't yet been made.

7 MR. JUETT: Well, I'm just saying that
8 in terms of preservation, but -- so the -- the issue
9 is -- is -- the -- the motion is overruled, with all due
10 respect.

11 MR. MORGAN: May I proceed?

12 MR. JUETT: Sure.

13 MAYOR THORNTON: Yes, sir.

14 MR. MORGAN: Okay. Thank you.

15 -----

16 **CONTINUED EXAMINATION**

17 **BY MR. MORGAN:**

18 Q. Chief, when we left on Monday we were
19 looking at your report, the two-page report -- the
20 one-and-a-half-page report?

21 A. Yes, sir.

22 Q. And I think I left off -- you and I were
23 discussing -- we had finished with the second paragraph
24 on the second page, so now we're down to the third
25 paragraph that begins, on February 5, 2016, and

1 February 6, 2016, I and Assistant Chief Best hand
2 delivered a packet to each offending officer and
3 supervisor.

4 And that's going to be the five guys here
5 at the table with -- with Daniel and me, as well as
6 Lieutenant Dempsey, correct?

7 A. No, that would have been actually 13
8 officers.

9 Q. Thirteen officers, okay.

10 A. One did not get served because of the
11 maternity leave.

12 Q. One did not get served why?

13 A. Because he was on maternity leave.

14 Q. Okay. Okay. And then you go on to say,
15 contained in the packets were a schedule of each month,
16 asking for justification for the particular days that
17 the officer or supervisor had remained in the dispatch
18 center or headquarters for an extended period of time, a
19 list of questions asking for explanation or
20 justification for the discrepancies on their time cards
21 and a justification for no activity logged for an entire
22 shift.

23 Now, are you telling the Commission members
24 that when you gave these packets -- you and Assistant
25 Chief Best -- that no decision had been made about what

1 type of punishment to impose?

2 A. No, sir.

3 Q. You had not decided what punishment to
4 impose?

5 A. No, sir, because with the responses that I
6 asked for, I was asking for some form of justification
7 for their actions.

8 Q. Okay. Now, the documents and the packets
9 that you gave these officers on the 5th and 6th of
10 February, are those the charging documents?

11 A. No, sir.

12 Q. That's just what, informational stuff?

13 A. Yes, sir.

14 Q. Okay. And again, we -- as we discussed,
15 you -- did you make available or tell them to look at
16 the video or any of the videos that you were relying
17 upon?

18 A. No, sir.

19 Q. The next part here, the next paragraph
20 says, I received the responses from all officers by
21 Monday, February 8, no later than 8:00 a.m., and that's
22 because you told them to provide this to you by then,
23 correct?

24 A. Yes, sir, that's correct.

25 Q. After reading through the responses, I

1 found three justifications that were plausible from
2 three different officers -- Dempsey, Breslin and
3 Thompson. Other than these three, none of the responses
4 gave a justifiable reason as to any violation listed.

5 So as I understand it, you mentioned you
6 had 13 officers that you looked at, correct?

7 A. Yes, sir.

8 Q. And only three gave plausible answers --
9 those that you mentioned -- so the other ten gave either
10 implausible or ones that didn't justify, in your mind,
11 why -- not going further with pressing charges, correct?

12 A. At that point, yes, sir, but upon further
13 review of some of the responses I did find some
14 justification that I allowed.

15 Q. Okay. Any of these officers?

16 A. Yes, sir, Lieutenant Puckett.

17 Q. Okay. What was that?

18 A. The two hours for the staff meeting.

19 Q. Okay. When did you come to that decision
20 that -- that there were these plausible answers from
21 either Lieutenant Puckett or the other three officers
22 you mentioned? When did you come to that decision?

23 A. After I reviewed the responses.

24 Q. That would have been on Monday?

25 A. Yes, sir.

1 Q. Okay. I gather later in the day on Monday?
2 A. No, sir, Monday morning.
3 Q. Monday morning. Now, Monday morning you
4 also talked with a lawyer named Jerry Wright, correct?
5 A. That's correct, sir.
6 Q. And did you tell -- and you talked to
7 Mr. Wright, who's a lawyer in Lexington, used to be a
8 police officer with you in Lexington, correct?
9 A. That's correct, sir.
10 Q. And when you talked to him on the telephone
11 Monday morning you told Mr. Wright then that you wanted
12 these officers -- these five officers -- to resign,
13 correct?
14 A. I -- I don't recall that -- saying that,
15 sir. I might have, but I don't recall saying that.
16 Q. Well, the -- as I understand it, that phone
17 call would have occurred early in the morning, by 8:00.
18 A. I -- I remember talking to -- to
19 Mr. Wright, yes, sir.
20 Q. Okay. And that was by 8:00, early in the
21 morning Monday morning?
22 A. I can't -- I don't know the time, sir, but
23 I did talk to Mr. Wright.
24 Q. Okay. And you -- you say that you could
25 have told him that you wanted these five to resign?

1 A. I don't -- I don't -- if I had already
2 looked at their responses, possibly. I don't know. I
3 don't remember the conversation, sir.

4 Q. You -- but you remember talking to him?

5 A. Yes, sir, I do.

6 Q. Okay. The -- when -- so you -- on Monday
7 then, that would have been -- let's see, the 8th --
8 Monday, the 8th of February --

9 A. That is correct.

10 Q. -- correct?

11 A. Yes, sir.

12 Q. Did you conduct any further questioning of
13 these officers?

14 A. I did not.

15 Q. Is -- at any point in time did you question
16 these officers?

17 A. I do believe I had a conversation with
18 Officer Primm.

19 Q. Primm?

20 A. Yes, sir.

21 Q. When would that -- when was that?

22 A. That same morning.

23 Q. On the Monday morning?

24 A. Yes, sir.

25 Q. Okay. Was he on duty?

1 A. He was not.

2 Q. And I gather that -- well, were any of
3 these officers on duty when they wrote up their
4 responses to you?

5 A. Actually, can I back up to the previous
6 question?

7 Q. (Nods head.)

8 A. We'd actually -- I'd actually called them
9 in that morning, so actually, they -- technically, they
10 were on duty and being paid at that point.

11 Q. On Monday morning?

12 A. Yes, sir.

13 Q. And that's in compliance with KRS 15.520,
14 Sub 5, Sub D, which says that they have to be on duty
15 when you question them, correct?

16 A. That's correct, sir.

17 Q. All right. Well, Chief, so you talked to
18 Jerry Wright, and you may have told him something about
19 these guys resigning.

20 When you met with these officers on that
21 Monday morning you presented them with only papers to
22 resign, correct?

23 A. No, sir.

24 Q. What did you do?

25 A. They were given -- given their suspension

1 letter. They were given their disciplinary -- or their
2 charging document, the suspension letter and a
3 resignation letter.

4 Q. Okay. That's what I'm saying. You -- you
5 gave them one option --

6 A. Correct.

7 Q. -- and that was to resign --

8 A. Yes, sir.

9 Q. -- on Monday morning?

10 A. That is correct.

11 Q. Okay. And that was at the same time -- how
12 much later after receiving these documents did you
13 present them with this, with your recommendations and
14 the option of resigning?

15 A. Could you repeat the question, sir? I'm
16 sorry.

17 Q. When did you get the responses from these
18 officers? You got them on Monday morning, correct?

19 A. I had some prior to that.

20 Q. Sure.

21 A. Some -- some emailed them to me, yes, sir.

22 Q. But most of these guys you got from --
23 responses on Monday morning, correct?

24 A. Yes, sir, that's correct.

25 Q. And when did you meet with these officers?

1 A. Monday morning.

2 Q. Okay. So you were very quickly able to see
3 that you were not going to do anything except accept a
4 resignation?

5 A. After reviewing their responses, yes, sir,
6 that was my recommendation.

7 Q. How long did it take for you to review
8 their responses?

9 A. I can't give you an exact time. I read
10 them before they came in.

11 Q. And what time did they come in?

12 A. They were set to come in at 9:00. There
13 was a different -- there was a schedule for each one to
14 come in, and it started at 9:00.

15 Q. So you had everybody at -- had everybody's
16 response in by 8:00 and had them all reviewed by 9:00 --

17 A. Yes.

18 Q. -- within an hour --

19 A. That's correct.

20 Q. -- in addition to all the other duties as
21 chief?

22 A. That was my only duty that morning, sir.

23 Q. Did you meet with Puckett at 8:00 that
24 morning -- on Monday morning?

25 A. Did I meet with Lieutenant Puckett?

1 Q. Yes.

2 A. No, sir.

3 Q. It would have been after 9:00?

4 A. Yes, sir.

5 Q. Do you have a schedule that shows who you
6 met and when?

7 A. I don't know that I have it with me. I
8 did. I just wrote it up, who was coming in at what
9 time.

10 Q. Okay. Would you give that to your lawyers,
11 please?

12 A. I will.

13 Q. Thank you. Isn't it true, Chief, that when
14 you met with these officers you did not have any -- any
15 other paperwork other than the charging document with
16 the recommendation of termination and the -- the
17 resignation letter that you gave to them so that they
18 could sign it and go ahead and quit right then and
19 there, no other documents besides that?

20 A. That is the documentation that I had, yes,
21 sir.

22 Q. Okay. And when these officers told you
23 they weren't going to resign you had to put together
24 basically the charging documents and get -- and get all
25 that together and had to give that to them the next day,

1 on Tuesday, correct?

2 A. That is correct, yes, sir.

3 Q. But you're telling this Commission you
4 didn't already have your mind made up until -- before
5 9:00 a.m. on Monday morning?

6 A. That's correct, sir, because I -- I gave
7 them the opportunity to give me their justification.

8 Q. Chief, when did you get the Mayor's
9 permission to sign and the Clerk's permission to sign
10 the charges that you presented these officers?

11 A. Sir?

12 Q. The charges that you presented the officers
13 on Monday morning --

14 A. Yes, sir.

15 Q. -- when did you get the Mayor's permission
16 to sign those charges?

17 A. I don't know, sir.

18 Q. Was it Monday morning? Did you talk to him
19 that day?

20 A. I -- I do not recall when I talked to the
21 Mayor.

22 Q. Well, let's -- let's walk through that a
23 little bit, please, because you're -- these five and
24 Dempsey are the only officers that you asked to resign,
25 correct?

1 A. That's correct, sir.

2 Q. The other -- the other ten -- I'm sorry;

3 the other four you gave some other type of discipline,

4 correct?

5 A. There was 14 total, sir.

6 Q. Okay. All right. Fourteen total, so then

7 that would be -- and three, you accepted what they had

8 to say, so then there's eleven?

9 A. No. On these three it's not -- there were

10 certain things that I accepted, not the whole

11 justification that they gave me.

12 Q. Oh, okay. All right. So you've got 13

13 officers --

14 A. Yes, sir.

15 Q. -- on your force -- that's almost half the

16 force, right?

17 A. Fourteen is over half the force.

18 Q. Fourteen officers is more than half the

19 force, and you're not sure when you talked to the Mayor

20 about this disciplinary issue?

21 A. No, sir, I'm not. I know I talked to the

22 City Manager.

23 Q. Okay. When was that?

24 A. I do not recall when I spoke -- spoke to

25 Mr. Plummer.

1 Q. Well, would that have been on that Monday?
2 Was it -- when?

3 A. Sir, I do not remember.

4 Q. How was it that you communicated with him?

5 A. I spoke with him in his office.

6 Q. Okay. Any emails?

7 A. No, sir. I walked down to his office and
8 told him about it.

9 Q. And what did you say?

10 A. I told him what had been going on. I told
11 him that this was coming and that -- just the situation
12 as it was.

13 Q. And you don't know when that was, though?

14 A. I don't, sir.

15 Q. Do you know when it was that you got the --
16 that you talked to the Mayor, though, about your
17 recommendation to -- to fire these guys --

18 A. Sir --

19 Q. -- terminate their employment?

20 A. -- I don't -- I do not remember talking to
21 the Mayor, sir.

22 Q. About it at all?

23 A. I don't remember talking -- I talked to the
24 City Manager.

25 Q. Okay.

1 A. I do not remember talking to the Mayor.

2 Q. Okay. What about the other Commissioners,

3 did you get their permission to do this?

4 A. No, sir.

5 Q. Okay. When you talked to the lawyer, Jerry

6 Wright -- and I'm almost done on this -- it was on the

7 phone, right?

8 A. Yes, sir.

9 Q. Was it on your cell phone?

10 A. I don't think so. I think it was on the

11 office phone. Yeah, I'm pretty sure it was the office

12 phone.

13 Q. Okay. So on -- so that happens Monday.

14 Tuesday you provide these officers with their notice

15 that they're -- they're going to be fired,

16 recommendation is termination, and they're suspended

17 without pay --

18 A. Yes, sir.

19 Q. -- until Monday, until the hearing, which

20 started the day before yesterday, correct?

21 A. Correct.

22 Q. When did you get the City Commissioners'

23 permission to do that, to suspend them without pay?

24 A. I did not get their permission, sir.

25 Q. Okay. Do you know that Section 3 of the

1 Paris Police Department policy at 100.060 says that you
2 must get the Commission's approval to suspend the
3 officers without pay --

4 MR. BEAUMAN: Object.

5 Q. -- before you do that?

6 MR. BEAUMAN: Mr. Mayor, we covered
7 this Monday morning. First of all, 15.520 was recently
8 amended. That would clearly supersede any policy of the
9 police department or ordinance of the City that may read
10 to the contrary.

11 This line of questioning is not called
12 for under 15.520, and I think it's inappropriate. It's
13 also asking him to construe the ordinance and the policy
14 and make a conclusion of law, which is not appropriate
15 either.

16 MR. JUETT: I would like -- I would
17 like for him to answer whether he is aware of that
18 policy. In terms of an ultimate conclusion, I would
19 agree.

20 Do you want to repeat your question,
21 Mr. Morgan?

22 Q. Well, let me ask it then a different way,
23 sir.

24 Are you aware that under the City of Paris,
25 the City policies that -- upon which you relied in part

1 of your -- the discipline that you brought against
2 Lieutenant Puckett, you relied on City of Paris
3 policies, right?

4 A. Yes, sir.

5 Q. Okay. And on Part 3 of the City of Paris
6 policies, Part 3, Sub 3, dealing with suspension it
7 says, suspensions without pay must be approved by the
8 City Commission.

9 Were you aware of that?

10 A. I was not, sir.

11 Q. Okay. Let me show you --

12 MR. MORGAN: And I'll tender to the
13 Commission and the Mayor -- may I approach the witness,
14 sir?

15 MR. JUETT: Yes.

16 MR. MORGAN: And what -- I'm sorry; I
17 miscalculated on our exhibit numbers. What number?

18 COURT REPORTER: 5.

19 MR. MORGAN: We're on Number 5 now?

20 COURT REPORTER: Yes.

21 (Defendants' Exhibit No. 5 was marked
22 for identification.)

23 Q. Chief, this is marked as Exhibit Number 5,
24 and if you turn to the last page there's a highlighted
25 section there dealing with what you're supposed to do.

1 A. Yes, sir.

2 Q. And did you look at the policies of the
3 City of Paris before you suspended these men without
4 pay?

5 A. I looked at the policies, sir, for the
6 charges -- for the charging document.

7 Q. Okay. Well, my answer -- my question was,
8 did you look at the City of Paris policies, and I guess
9 your answer is no?

10 A. No --

11 MS. JACOBS: His answer is --

12 A. -- my answer is I did look at them.

13 Q. Okay.

14 A. I looked at the charging part of -- of the
15 policy.

16 Q. Okay. But did not look at what you need to
17 do when you suspend somebody, correct?

18 A. I did not look at the suspension part, no,
19 sir.

20 MR. MORGAN: Okay. So I'm sorry;
21 Bryan, are we -- is it the City -- or Patsey or
22 whoever -- are we saying that the Paris Police policies
23 are inapplicable because of the change made to the
24 citizen complaint section of the peace officer's Bill of
25 Rights?

1 MR. BEAUMAN: I don't think that's an
2 accurate description of the revisions to 15.520, but I
3 don't think this is the time or place for our legal
4 arguments about what the effect of that was.

5 You all can laugh at me all you want
6 to, but we don't --

7 MR. MORGAN: I'm sorry; I'm not
8 laughing.

9 MR. BEAUMAN: -- need to have this
10 legal argument. You can ask your questions of him.

11 Q. Well, Chief and Counsel -- lawyers -- my
12 question is, were you aware about the -- whether it was
13 in effect or not -- the requirement under the Paris
14 Police Department policies that before you could suspend
15 somebody without pay you've got to get the permission of
16 the Commission?

17 A. No, sir.

18 Q. And these are Paris Police documents --
19 policies, right?

20 A. Correct, sir.

21 Q. And you as assistant chief were in charge
22 of reviewing and knowledge of and implementation and
23 creation and modification and whatever needed to be done
24 with policies, correct --

25 A. No.

1 Q. -- for the four and a half years you were
2 assistant?

3 A. No, sir. That is the job and duty of the
4 police chief.

5 Q. Oh, okay. So you've only had that job for
6 some six months --

7 A. Yes, sir.

8 Q. -- to know about the policies and what
9 needs to be done in that regard, because I thought
10 Monday you said part of the job as the assistant chief
11 was to make sure of what the policies were and make sure
12 they were up to date and all that?

13 A. Of the assistant chief?

14 Q. Yeah.

15 A. That is -- I don't remember -- recall
16 saying that, sir. I might have, but I -- my answer is,
17 that is the job of the Chief of Police. He makes
18 policy.

19 The assistant may help, but the -- it's the
20 job of the police chief to review and make policy.

21 Q. Okay. Why didn't you look at the policies
22 of the City of -- City of Paris?

23 A. Sir, I did look at the policy.

24 Q. Okay. Why didn't you look -- well, you
25 looked at things you could charge somebody with, but --

1 A. Sure.

2 Q. -- why not look at the ones dealing with
3 how you discipline?

4 A. Oversight on my part, sir. I did not look
5 at that section of the policy.

6 Q. Is it your understanding, Chief, that when
7 you suspend somebody without pay that you're preventing
8 them from collecting a paycheck, they don't get paid for
9 that period of time?

10 A. Yes, sir, I understand that.

11 Q. That's a big deal, isn't it?

12 A. It is, sir, and I do not take it lightly.

13 Q. But yet you didn't look to how you -- the
14 process for going about that, correct?

15 A. Sir, I thought that was within my rights
16 and I took that action.

17 Q. Were you concerned that if you went to the
18 Commission that they would not let you do that?

19 A. No, sir, not at all.

20 MR. JUETT: Mr. Morgan, before you go
21 on, I think -- I'm trying to find the relevance of this
22 to the ultimate issue, which is whether there's
23 substantial evidence to support that there were
24 violations of the City's policies.

25 You're questioning him on issues

1 related to why he didn't follow certain things. I don't
2 know that that's relevant to the ultimate issue.

3 And I've given you leeway on it
4 because I was wanting to see where you were going. I'd
5 like, though, for you to move on.

6 MR. MORGAN: I'll move on.

7 Q. Chief, do you remember instructing someone
8 on your staff to cancel Kevin Anderson's training
9 sometime on or about February 5 -- 4 or 5 -- training
10 that Anderson had scheduled at DOCJT?

11 MS. JACOBS: I'm going to object to
12 the relevance to whether it goes to if there's
13 substantial evidence to sustain the charges or not. It
14 doesn't have anything to do with that.

15 MR. JUETT: I see where you're --
16 let's see where you're going, but I agree. I mean, this
17 is what I'm looking for is how we're tying this in to
18 the substantial evidence --

19 MR. MORGAN: Okay.

20 MR. JUETT: -- of whether the policies
21 were actually violated.

22 MR. MORGAN: All right. And I
23 understand your -- your point, but I think it's -- I
24 mean, in all due respect, this goes back to our
25 complaint about 13(b) and the --

1 MR. JUETT: I don't think --

2 MR. MORGAN: -- the netherworld --

3 MR. JUETT: -- we need --

4 MR. MORGAN: -- in which we are here
5 about --

6 MR. JUETT: Right.

7 MR. MORGAN: -- on the peace officer
8 Bill of Rights and the role that a quasi-hearing officer
9 has in a quasi 13(b) hearing.

10 My understanding is it's the
11 Commission, they -- they get to decide what they want to
12 hear, what they need to hear, and it's not -- it's their
13 call. It's their decision.

14 MS. JACOBS: Your Honor, 13(b) doesn't
15 apply to cities. It doesn't apply to this proceeding.
16 We're going under 15.520. It's very clear that that is
17 the proceeding we're going under.

18 Even the City's policies say all of
19 the provisions supplement or -- or supersede anything in
20 the City's provisions when it's under 15.520.

21 And 15.520 gives the maximum
22 protection to the officers -- that's what they're
23 getting here -- but it's not a field day. It's not a
24 fishing expedition.

25 MR. JUETT: I understand, and I agree.

1 I don't think 13(b) applies here, so I don't think we're
2 talking about 13(b).

3 And I want to give you latitude, but I
4 think what I want to do is -- and in terms of who is
5 actually making the decision, it is the Commission.

6 To make this an orderly proceeding,
7 Mr. Morgan, they have asked me, who has at least some
8 knowledge -- more knowledge than most of the
9 Commissioners -- of courtroom procedure -- probably not
10 as much as the lawyers in the room -- but that part has
11 been delegated to me, and that's why I am handling that
12 at -- with the Mayor.

13 In terms of what questions you're
14 asking, I think it needs to -- it needs to not confuse
15 the issue of what the purpose of this hearing is, and I
16 think the purpose of the hearing -- not -- not think --
17 the purpose of the hearing, once again, is to see if
18 there is substantial evidence to support that the City's
19 or the Police Department's policies have been violated.

20 Going into issues of how you handled
21 this or what your other motives might be are not
22 relevant to that inquiry.

23 MR. MORGAN: Okay. And in all due
24 respect, there are two prongs, two decisions that need
25 to be made.

1 The first one you've illuminated --
2 you've addressed, that whether a policy has been
3 violated.

4 The second prong, though, in all due
5 respect, you haven't touched on, and that is, if it has
6 been, then what should the punishment be and --

7 MR. JUETT: Which is not reviewable
8 by --

9 MR. MORGAN: I'm sorry. I'm sorry.
10 But what we're trying to do is establish that when the
11 chief sets the bar at firing, at termination, then --
12 and we can't hear why the chief wants to fire these
13 guys, then we are not allowing this Commission to have
14 the information it needs in making the decision as to
15 whether they should fire -- allow the chief to fire
16 these men.

17 MR. JUETT: I think they've heard from
18 the chief why they -- why he has said he wants them
19 terminated.

20 We've heard from you and your
21 co-counsel -- both -- arguments about the -- the basis
22 of your questions.

23 You have -- you have stood up and
24 you've told everybody what you want to question him
25 about and what you think the relevance is, and so I

1 think going into that any further -- I don't think
2 there's anyone here who isn't aware of the fact that
3 you're -- you're making that argument, so I don't want
4 to confuse the issue anymore about what the punishment
5 ought to be, which is not reviewable by an appellate
6 court --

7 MR. MORGAN: It is, actually, but --

8 MR. JUETT: -- so let's --

9 MR. MORGAN: -- anyway, what -- you
10 know, I think it's important -- and I'm sorry to argue
11 this with you in front of the Commission, but the issue
12 here, though, also is, if the chief has already made up
13 his mind before he even sends notices to these guys and
14 he's canceling Anderson's training a week in advance of
15 even providing Anderson with notice of this charge, that
16 goes to show that his mind has been made up before the
17 information is even in.

18 MS. JACOBS: Mr. Temple (sic), the
19 fact of the matter is, he didn't have to give them that
20 chance to respond anyway. His mind could have made
21 up -- been made up at any point in this process.

22 He's the -- the chief and he gave them
23 a chance to respond, but he didn't have to do that. He
24 did consider that. He's moved forward with the process.

25 MR. JUETT: I -- I think it's getting

1 back to what's relevant here, and I think if you can
2 limit your questioning to whether substantial evidence
3 exists for these underlying charges, that's what's
4 relevant to this proceeding.

5 MR. MORGAN: And punishment. Do you
6 agree with that, that there's two issues here?

7 MR. JUETT: I don't -- I don't agree
8 that the alternative motives evidence that you want to
9 present should be brought in.

10 MR. MORGAN: Okay. But to be real
11 clear and to make this on the record, there are two
12 issues here.

13 One is substantial evidence, two --
14 and the second one is the penalty, punishment, if there
15 is a finding of substantial evidence. Do you agree with
16 me on that?

17 MR. JUETT: They -- the Commission
18 does need to determine what the penalty would be, that
19 is correct.

20 MR. MORGAN: And they need evidence
21 for that.

22 MR. JUETT: If you want to ask your
23 questions, Mr. Morgan, please proceed.

24 Q. Let's go to the video.

25 A. Yes, sir.

1 Q. People like that. Let's go to December 4,
2 please, and please go to 8:00 a.m. on December 4.

3 And while you're doing that, Chief, tell
4 us, please -- you know, you mentioned that the time
5 stamp on the dispatch video is some 20 minutes off,
6 correct?

7 A. That's correct, sir.

8 Q. Is the time stamp on the outdoor video
9 camera, the one for the parking lot, is that off as
10 well?

11 A. That's correct, sir.

12 Q. It's also off?

13 A. Yes, sir.

14 Q. By how much?

15 A. Twenty minutes.

16 Q. By the same amount of time?

17 A. About 20 minutes, yes, sir.

18 Q. Okay. December 4, please, at 8:00 a.m.,
19 and you can put this on the fast -- fast mode here if
20 you want.

21 A. Which camera would you like, sir?

22 Q. The dispatch, please. That's the -- is
23 this the 4th?

24 A. Yes, sir.

25 Q. Okay. Is that 8:00 a.m., sir?

1 A. It is now.

2 Q. That's 9:00. Okay. There we go, yeah.

3 Who's that dispatcher, sir?

4 A. I believe her name is Julia Wood, sir.

5 Q. Okay.

6 COURT REPORTER: I'm sorry; what?

7 THE WITNESS: Julia Wood.

8 Q. And the other woman -- it appears to be a

9 woman she's talking to there?

10 A. I believe that is Linda Byrd.

11 Q. Okay. And this is the day of the dog we

12 saw the other day, right?

13 A. Yes, sir.

14 Q. Do you know why that dog was in there?

15 A. I -- I've been told, yes, sir.

16 Q. Okay. Who is that officer who's petting

17 the dog now?

18 A. That is, I think, Captain Rick Elkin.

19 Q. Okay. He's -- he's the one sitting down

20 there?

21 A. Yes, sir.

22 Q. Do you know who that person was who came in

23 with the stocking cap?

24 A. I did not see that, sir.

25 Q. Oh, you didn't see a stocking cap?

1 A. I -- I did, but I don't know who that was.

2 Q. All right. Okay. That's -- that's fine.

3 Let's go to 8:10. Let's do these ten-minute segments

4 like you did the other day.

5 A. It's at 8:12 now, sir.

6 Q. Okay. Then please go to 8:20.

7 That's -- is that still Captain Elkin?

8 A. That's correct, sir.

9 Q. Let's go to 8:30.

10 Who's that officer there standing -- now,

11 Captain Elkin is still sitting, correct, in the same

12 chair he had been earlier?

13 A. That's correct, sir.

14 Q. Who's that man standing there with the

15 sunglasses on his head?

16 A. I would have to look.

17 Q. Okay. Well, play it for a little bit,

18 please.

19 A. That's possibly Officer Hurst, I think.

20 Q. Can you see better there?

21 A. Yes, sir, Officer Bill Hurst.

22 Q. Okay. Are these -- is Hurst first shift?

23 A. That's correct, sir.

24 Q. And Elkin first shift?

25 MS. JACOBS: I'm going to object.

1 Unless any of these officers charged are going to show
2 up on this video somewhere, I don't know how it's
3 relevant.

4 Nothing on December the 4th was
5 charged against these officers, I don't believe.
6 They're not on first shift. That's second shift
7 officers.

8 MR. JUETT: I understand. Let's let
9 him go ahead --

10 MR. MORGAN: Thank you.

11 THE WITNESS: -- see where he's going.

12 Q. Well, let's -- let's go to 8:40, please,
13 Chief. That appears to be everybody still there. Let's
14 go to 9:00, please -- 9:00 a.m. -- 9:00, and play that
15 for a little bit, please.

16 Does that appear to be Captain Elkin --

17 A. Yes, sir.

18 Q. -- still?

19 A. Yes, sir.

20 Q. What were you told about the dog? You were
21 going to -- you had said something -- you had heard why
22 the dog was there. You can keep playing it, please.

23 A. Oh, I'm sorry. I had heard that the dog
24 was in a home that was being neglected maybe -- this is
25 just hearsay -- I don't know the exact story -- but that

1 Officer, I think, Sandfort had taken it out of the home,
2 that Animal Control --

3 Q. Is that Chief Elkin -- or Captain Elkin
4 playing with the dog?

5 A. It is, sir.

6 MS. JACOBS: Again, I'm going to
7 object.

8 MR. MORGAN: That's fine.

9 MS. JACOBS: I don't --

10 Q. Let's stop --

11 MS. JACOBS: -- this is not relevant
12 to --

13 Q. -- you can stop it, please.

14 MS. JACOBS: -- anything.

15 Q. You can stop it now.

16 What -- what discipline did Captain Elkin
17 get for this?

18 MS. JACOBS: Objection; completely
19 irrelevant. He -- they don't get to know that. It's
20 not part of these proceedings.

21 This Ludlow case again -- Gilberson
22 versus City of Ludlow -- is very clear. Gilberson
23 maintains he was denied equal protection because he was
24 terminated while other officers who engaged in conduct
25 violating the department's rules and regulations were

1 not terminated.

2 Not every decision is a constitutional
3 matter. It's not relevant. It's only whether these
4 officers violated the policies. That's it. That's all.

5 MR. JUETT: I agree.

6 MR. MORGAN: Well, that's -- for the
7 record, that's an unpublished decision. We're using
8 this --

9 MS. JACOBS: It's exactly on point,
10 and it is --

11 MR. MORGAN: Okay. I'm sorry --

12 MS. JACOBS: -- citable and reliable.

13 MR. MORGAN: -- to interrupt there,
14 Patsey, but --

15 MS. JACOBS: Me too.

16 MR. MORGAN: -- I was talking. You
17 know, let's -- we're -- let's be okay here. It's going
18 to be okay.

19 MR. JUETT: I -- I --

20 MS. JACOBS: Excuse me?

21 MR. JUETT: -- let's --

22 MS. JACOBS: Excuse me?

23 MR. JUETT: -- everybody, please,
24 let's respect one another, and you can continue.

25 MR. MORGAN: Yes.

1 Q. Well, Chief, you punished these guys -- in
2 particular, the ranking officers, the lieutenants --
3 for -- and singled out this day with the dog as being
4 particularly reprehensible conduct, correct?

5 A. That's correct, sir.

6 Q. But you didn't do anything to Elkin, did
7 you?

8 MS. JACOBS: Objection. Don't answer
9 it.

10 MR. JUETT: Sustained.

11 Q. Well, okay. Chief, did you testify on
12 direct that you were disciplining these guys because
13 this was a severe infraction?

14 A. Yes, sir, I did.

15 Q. But --

16 MR. MORGAN: And I gather, Mr. Juett,
17 you're going to -- if I ask him what he did here you're
18 going to sustain any objection? I mean, this -- this
19 door is open. He has created this as an issue.

20 MR. JUETT: Let's --

21 MS. JACOBS: Let me respond to that.
22 What he testified to was that these infractions were
23 serious infractions.

24 This is not based on December the 3rd
25 with the dog in there totally, and we've seen plenty of

1 video to establish that.

2 Whether anybody else was punished or
3 not is simply not relevant, and to say that only because
4 that night of the dog is why this came about is simply
5 untrue and an unfair characterization.

6 MR. JUETT: I think with regard to any
7 individual, what was done with them, I do think it's not
8 relevant.

9 I think if you want to ask generally
10 whether there were other officers that had the same
11 conduct that were treated differently, I think that's
12 something that the Commissioners might like to hear.

13 MR. MORGAN: Okay. Well, with the
14 same conduct that they were treated differently
15 Commissioners might want to hear?

16 MR. JUETT: Well, I'm -- your --
17 your -- your question to the officer is whether he --
18 well, repeat your question. What is your question? I
19 don't want to repeat the question.

20 MR. MORGAN: Sure.

21 Q. Well, we've seen the conduct here from --
22 from Captain Elkin. We've seen the conduct the other
23 day with regard to this same dog, same time frame, with
24 these -- with these officers.

25 Some of these officers -- and particularly

1 the lieutenant, the commanding officer -- how is what
2 they did different from what Elkin did?

3 MS. JACOBS: Objection. Same
4 objection based on the same thing. It's just simply not
5 relevant. I think the case law is clear.

6 MR. JUETT: Go ahead. Answer.

7 A. One, the conduct of Captain Elkin being in
8 the room is that he was the supervisor over
9 communications at the time.

10 As far as you asking about the conduct of
11 petting the dog, I did not charge these officers for
12 petting a dog. I charged the officers for a pattern of
13 conduct for dereliction of duty for being in dispatch.

14 Q. The -- the guy who's sitting there with the
15 sunglasses on his head and hands behind his head, did he
16 get --

17 MS. JACOBS: Objection.

18 Q. -- how was his --

19 MR. MORGAN: I'm sorry; I'm almost
20 done.

21 Q. -- how was his conduct different than what
22 the other officers here did?

23 MS. JACOBS: Note my objection.

24 A. I did not observe a pattern of conduct --
25 conduct from Officer Hurst.

1 Q. Chief, do you agree with me that none of
2 these officers -- Anderson, Bholat, Puckett, Humphries
3 or Primm -- none of these officers brought in that dog,
4 that that --

5 A. No, sir.

6 Q. -- that dog was brought in by Animal
7 Control, correct?

8 A. No, the dog, I believe, was brought in by
9 Officer Sandfort, another officer. I think Animal
10 Control was called, but they didn't show up.

11 Q. Okay. Just to be real clear, these guys
12 did not bring in this dog --

13 A. That's correct.

14 Q. -- right?

15 A. That's correct, sir.

16 Q. All right. Let's turn off the dog, please.
17 Chief, you mentioned that Captain Elkin was
18 at that time in charge of communications.

19 Communications is -- contains dispatch,
20 among other things, right?

21 A. That's correct, sir.

22 Q. When was it that Lieutenant Puckett got in
23 charge of communications?

24 A. He was transferred to the communications
25 unit 12/14.

1 Q. Okay. When you say transferred to the
2 unit, he was -- as a lieutenant, he's going to be in
3 charge of communications, right?

4 A. He -- he wasn't at that point, sir. It
5 wasn't until the first part of the year. I wanted him
6 to spend a few weeks under Captain Elkin to learn the
7 job.

8 Q. Okay. So he comes in on the 14th, and then
9 I guess on 1/1 or thereabouts he becomes the guy in
10 charge?

11 A. Somewhere at the first of the year. I'm
12 not sure of the exact date, sir.

13 Q. And this is in the midst of your
14 investigation into Lieutenant Puckett for his activities
15 in dispatch, correct?

16 A. That's correct, sir.

17 Q. So you put him in charge of the place that
18 you're now wanting him to be fired -- of dispatch,
19 correct, because of conduct that he did in dispatch?

20 A. That's correct, sir.

21 Q. And at the time you put him in charge of
22 dispatch you were investigating him and you were looking
23 at these videos involving dispatch, right?

24 A. Yes, sir, I was.

25 Q. Okay. You gave him no instructions on your

1 investigation; you didn't tell him that you were looking
2 at him or any of these other officers then, did you?

3 A. No, sir, I didn't.

4 Q. And you gave him no instructions or other
5 direction on how to operate dispatch other than this
6 email that came out in -- in December -- December 8 --
7 don't hang out in dispatch and whatever Captain Elkin
8 may have told him?

9 You didn't give him anything -- any other
10 guidance, correct?

11 A. No. I relied on Captain Elkin to give him
12 the instruction, sir.

13 MR. MORGAN: May I approach the
14 witness, Mr. Juett?

15 MR. JUETT: Yes. Thanks for asking.

16 (Defendants' Exhibit No. 6 was marked
17 for identification.)

18 Q. Chief, let me show you what will be marked
19 as Exhibit Number 6 and ask you if that's a fair and
20 accurate copy of the email that was sent at your
21 direction on or about December 8?

22 A. Sir, I did not give direction to send this
23 email.

24 Q. So Captain Elkin did this without any
25 direction?

1 A. Possibly, sir, but I -- I did not give
2 direction to send this email.

3 Q. Okay. Then I misunderstood then, I guess,
4 what you said Monday, because I thought you said that
5 you were aware of this email and that you did not send
6 it?

7 A. No, sir, that -- that was the email by
8 Assistant Chief Best.

9 Q. Regarding dispatch?

10 A. That was sent to all the officers, yes,
11 sir.

12 Q. Okay.

13 A. I was aware of that email.

14 Q. Okay. So this is a different email?

15 A. If it's --

16 Q. How many emails went out?

17 A. I knew about one, sir.

18 Q. And this isn't it?

19 A. No, sir.

20 Q. All right. Do you have the one from Chief
21 Best?

22 A. No, sir. That's the one we talked about
23 the other day.

24 Q. And we didn't give -- you didn't give it to
25 the Commissioners in their packet previously?

1 A. No, sir, I don't believe so.

2 Q. Okay.

3 MS. JACOBS: For the record, I do have
4 a copy of that email. We just didn't have it copied at
5 the time. I'll give it to the Commissioners at the
6 appropriate time.

7 MR. MORGAN: Okay. May I see that
8 real quick, please? May I approach the lawyer?

9 MR. JUETT: Yes.

10 MR. MORGAN: Thank you.

11 MR. JUETT: At your own peril.

12 MR. MORGAN: Yes. Okay. Well,
13 Patsey, may I have -- I'm going to go ahead and mark
14 this as Exhibit Number 7, sir.

15 (Defendants' Exhibit No. 7 was marked
16 for identification.)

17 MR. MORGAN: May I have some copies
18 and just go ahead and give it to the Commission?

19 MS. JACOBS: Can I keep my own copy
20 this time?

21 MR. MORGAN: You may, and I need a
22 copy too.

23 Q. Okay. So the one that is marked as
24 Number 7, sir --

25 A. Yes, sir.

1 Q. -- that's the one that on the top left it
2 says, officers in dispatch?

3 This is the one of which you were aware?

4 A. That's correct, sir.

5 Q. Did you tell Chief Best to send this?

6 A. I did, sir.

7 Q. Okay. This was -- as I see this -- would
8 have gone out on the 8th at about 5:17 p.m., and is this
9 everybody on the police force, sir?

10 A. Without reading the names, it -- it appears
11 to be.

12 Q. Okay. And it says, as a reminder, we're
13 not to be in dispatch unless we have business that needs
14 to be taken care of or a short visit; please do not stay
15 in dispatch for extended periods of time.

16 And then going back to Exhibit Number 6,
17 this one is from Richard Elkin.

18 That's Captain Elkin that we saw in the
19 video earlier today, correct?

20 A. Correct, sir.

21 Q. And this is to Kevin Anderson, Jeannette
22 Benson, Julia Wood -- those are dispatchers -- as well
23 as Richard Elkin -- he's himself, I guess -- Abdullah
24 Bholat, and there are these dot, dot, dot, at the end of
25 that line of names, which I take as being there's a

1 whole bunch of other names along with that, correct?

2 A. I would assume so, sir.

3 Q. Okay. And this one is a little different
4 in tone, effective immediately -- with a specific date
5 and time, 11:30 on 12/08/2015 -- patrol personnel are
6 not to be in dispatch.

7 And as I understand, patrol is something
8 different than supervisors, correct?

9 A. Patrol personnel, I take that to be all
10 under patrol, which I would include supervisors.

11 Q. Oh, okay. So lieutenants are -- are patrol
12 personnel?

13 A. Yes, sir, they would -- they would fall
14 under patrol.

15 Q. Okay. Are captains?

16 A. It depends on where they're assigned, sir.
17 Captain Elkin at the time, no, sir, he would not have
18 been part of patrol.

19 Q. So anyway, it gives us 11:30, 12/08, patrol
20 personnel are not to be in dispatch unless on police
21 department business and must leave in minimal time; it
22 applies to all shifts.

23 Chief, let me ask you, did you look at
24 first shift and how long they hung out in dispatch?

25 A. I reviewed some of first shift, sir, but my

1 initial complaint was in the evening hours, and that's
2 where I was focused on.

3 Q. Okay. So you looked at some, but not all?

4 A. No, sir, not at -- not at the moment.

5 Q. Are you going to go back and look at first
6 shift?

7 A. Apparently I will.

8 Q. Is it because of what you saw in the video
9 just a few minutes ago?

10 A. No.

11 Q. Is that what you're referencing?

12 A. No, sir. I just want to make sure the
13 officers are doing what they're supposed to.

14 Q. Okay. Do you have any idea why Captain
15 Elkin apparently sent this one out some six hours before
16 Chief Best sent out his email, which appears to be on
17 the same day?

18 A. I -- I can't tell you why Captain Elkin
19 sent it out, sir. I don't -- I don't know why.

20 Q. Does it make any difference to you, Chief,
21 that this -- does it make any -- I'm sorry; were you
22 getting notes there?

23 MS. JACOBS: I was asking a question
24 of him. It's not relevant to what you're asking. Okay?

25 MR. MORGAN: All right.

1 Q. Chief, when -- as a -- as a peace officer
2 and -- you know, and even in the military when -- for
3 that matter, in the law -- when -- when somebody says
4 effective immediately, that means at that -- from that
5 point in time forward this is the way it's going to be?

6 A. That's correct, sir.

7 Q. And -- and my point being, Chief, do you
8 agree with me that if you have to say, effective
9 immediately, then it suggests that before that point in
10 time, before effective immediately, things may not have
11 been quite so clear, because otherwise you don't have to
12 say effective immediately?

13 MS. JACOBS: I'm going to object. He
14 didn't write this email, he's never seen it before, so
15 if you want to ask Captain Elkin about what he meant,
16 maybe that's more appropriate.

17 MR. JUETT: Yeah, that is. Do you
18 want to rephrase?

19 MR. MORGAN: Well, I think we're --
20 we're talking -- if we're talking hearsay, we're -- I
21 mean, we've been through that. Hearsay is admissible in
22 this.

23 MR. JUETT: Do you want to ask him
24 what he meant by that? Is that what you're asking?

25 MR. MORGAN: No. I'm talking about

1 in -- in police terminology, that when you say -- when
2 somebody says effective immediately, that suggests -- as
3 he agreed -- from that point in time forward this is the
4 way it's going to be, but it also suggests that from
5 that time before things had been different.

6 That's -- otherwise you don't have to
7 say, effective immediately this is what we're going to
8 do.

9 Q. Do you agree with that, Chief?

10 A. I'm going to answer your question as yes, I
11 agree with effective immediately, but may -- may I
12 explain that?

13 Q. Yes, sir.

14 A. This email was sent to the dispatchers.
15 The previous email was sent to the officers that says,
16 as a reminder, which means you were told before.

17 Q. Okay. Well, how do you know this was sent
18 to dispatch, because you said you hadn't seen this
19 before, sir?

20 A. It's got the dispatchers' names at the top,
21 sir.

22 Q. Well, we talked about Anderson and Bholat
23 are mentioned on here, Richard Elkin. He's -- these are
24 all --

25 A. Officer --

1 Q. -- all officers.

2 A. Officer Anderson and Officer Bholat are
3 also part-time dispatchers, so they fall under the
4 dispatch email.

5 Q. Okay. But Chief, you don't -- you haven't
6 seen this until just now, right?

7 A. Correct, sir.

8 Q. So how do you know that it only went to
9 dispatch?

10 MS. JACOBS: I'm going to object.
11 He's never seen it before, so I don't know how --

12 MR. JUETT: I mean, I agree.

13 MS. JACOBS: -- he can answer the
14 question.

15 MR. JUETT: You're -- you're showing
16 him --

17 MR. MORGAN: Well, he says it only
18 went --

19 MR. JUETT: -- an email that --

20 MR. MORGAN: -- to dispatchers.

21 COURT REPORTER: One at a time.

22 MR. JUETT: -- he said he doesn't know
23 anything about and you -- you're asking him to tell you
24 what it means and what it was all about. I mean, it
25 doesn't seem to make sense.

1 MR. MORGAN: Well, what I'm asking him
2 is how he knows where it went when he says he hasn't
3 seen it before.

4 MS. JACOBS: It --

5 MR. JUETT: I think that's --

6 MR. MORGAN: And I really don't --

7 MS. JACOBS: That's -- that's the --

8 MR. MORGAN: I'm sorry; I --

9 MS. JACOBS: -- that's the problem.

10 MR. JUETT: I get --

11 MR. MORGAN: I'm in the same
12 conundrum. How does he know where it went when he
13 hasn't seen it before?

14 MR. JUETT: The point is made.

15 MR. MORGAN: Without laughter, thank
16 you.

17 MR. JUETT: I'm not laughing. I'm
18 just --

19 Q. Chief, you're disciplining Luke Humphries
20 for taking actions as a lieutenant, correct?

21 A. That's correct, sir.

22 Q. You investigated him in January of 2016 for
23 actions that he took as a lieutenant involving his
24 conduct with -- in a meeting with officers regarding the
25 change to a 12-hour shift, correct?

1 MS. JACOBS: Objection. We've been
2 over that over and over. He's going back to the thing
3 that you have overruled over and over and over again.

4 MR. JUETT: How is this not what we've
5 already --

6 MR. MORGAN: Well, what it -- what
7 this goes to, Mr. Juett, is that Lieutenant Humphries
8 had been investigated by the chief in January of 2016,
9 and in the course of that Lieutenant Humphries agreed to
10 a demotion to patrol, to officer, and -- but yet he's
11 still being punished now, and we've heard the chief's
12 statement that he's being punished as his role as a
13 lieutenant, in a supervisory role, when he's no longer a
14 supervisor.

15 He was -- he agreed to this demotion
16 based on the chief's investigation involving these --

17 MR. JUETT: I guess --

18 MS. JACOBS: At all --

19 MR. MORGAN: -- 12-hour work shifts.

20 MS. JACOBS: -- times he was a
21 lieutenant during all the times of the charge documents.
22 That's why.

23 MR. JUETT: I guess I still think
24 we're confusing the issue here.

25 COMMISSIONER BROOKS: Can I ask a

1 question?

2 MR. JUETT: Yes.

3 COMMISSIONER BROOKS: My question is,
4 are you saying that Humphries was charged -- besides
5 this set of charges, that he was charged before; this is
6 the second investigation? Is that what you're saying?

7 MR. MORGAN: No, sir. What I'm saying
8 is -- and if the hearing officer will let Humphries talk
9 about it too -- what you'll hear is that Humphries was a
10 lieutenant, he was talking with the other officers in
11 November about moving to a 12-hour shift.

12 In January the chief questioned him
13 about this, confronted him, told him that he was going
14 to be disciplined.

15 Humphries agreed to a resignation of
16 his lieutenant and went down to patrol, went down to
17 officer.

18 COMMISSIONER GALBRAITH: Okay. Now my
19 turn.

20 COMMISSIONER BROOKS: He's being
21 charged after he's agreed to the demotion?

22 MS. JACOBS: No.

23 MR. MORGAN: I don't know, sir.
24 That -- that's what --

25 MS. JACOBS: Could -- could I also ask

1 that --

2 MR. MORGAN: -- I want to try and --

3 MS. JACOBS: -- the officers --

4 COURT REPORTER: One at a time.

5 MS. JACOBS: -- refrain --

6 MR. MORGAN: -- and find --

7 COURT REPORTER: One at a time,

8 please.

9 MS. JACOBS: Could I ask that the
10 officers refrain from any verbal responses? This is not
11 their time to talk and to have their show.

12 MAYOR THORNTON: Please do so.

13 COMMISSIONER GALBRAITH: May I ask a
14 question? When was Luke -- when was Officer Humphries,
15 quote, demoted from lieutenant?

16 MR. MORGAN: January of 2016.

17 COMMISSIONER GALBRAITH: January,
18 okay. In January? In January?

19 MR. MORGAN: Yes, sir. I think it was
20 the 14th or something like that. It was the middle part
21 of January. I'm sorry; January 6.

22 COMMISSIONER GALBRAITH: January 6,
23 okay. Then back to the comment that was made just a
24 minute ago, are the charges that are -- the disciplinary
25 charges that are here, is 11.04, 16, 17, 18, 26, 27 and

1 47, were all of those charges prior to '06 of -- January
2 of '06?

3 MR. JUETT: Of '16, you mean?

4 MS. JACOBS: Yes, sir.

5 COMMISSIONER GALBRAITH: Of '16.

6 MS. JACOBS: Yes, sir.

7 COMMISSIONER GALBRAITH: Okay.

8 MR. MORGAN: Those were in November.

9 COMMISSIONER GALBRAITH: Okay. All
10 right.

11 MR. MORGAN: They would have been --

12 COMMISSIONER GALBRAITH: Okay. So
13 they were -- okay. I'm trying to understand because --
14 so these charges all transpired prior to him -- to
15 Luke -- Officer Humphries getting demoted?

16 MR. MORGAN: (Nods head.)

17 COMMISSIONER GALBRAITH: Okay. All
18 right.

19 MR. MORGAN: Those are the
20 allegations, that's right.

21 COMMISSIONER GALBRAITH: Okay. I'm
22 good. All right.

23 Q. Okay. So Chief --

24 A. Yes, sir.

25 Q. -- Humphries' resignation in January of

1 2016 -- resignation from lieutenant to patrol -- that
2 was -- was that going on during the midst of your
3 investigation about him in dispatch?

4 A. Was what going on, sir?

5 Q. Was your investigation and obtaining his
6 resignation in January of 2016, that was in the midst of
7 while you're investigating him and watching these videos
8 all the time, correct?

9 A. The incident you're talking about --

10 Q. Uh-huh.

11 A. -- was prior to my investigation.

12 Q. I thought you started your investigation in
13 December?

14 A. I did, sir.

15 Q. Okay. So January comes after December.

16 A. You are referencing a meeting about the
17 12-hour shift.

18 Q. Okay.

19 A. That was prior to my investigation.

20 Q. What do you mean by that, sir?

21 A. You made the statement they had a
22 meeting --

23 Q. Okay.

24 A. -- and I did something because of that,
25 which is not true, but you just asked me if my

1 investigation was taking place at the same time, and no,
2 sir, it was not.

3 Q. You mentioned that I mentioned something
4 that was not true?

5 A. Yes, sir, you did.

6 Q. What do you mean?

7 A. You --

8 Q. I don't know what you're talking about.

9 A. You referred that all of this is because of
10 the 12-hour shift, and no, sir, that's not true.

11 Q. All what is because of the 12-hour shift?

12 A. The proceedings that we're in right now.

13 Q. Okay. Is this resignation on -- from
14 lieutenant to patrol in January of 2016, does this have
15 to do with the 12-hour-shift issue?

16 A. Absolutely not.

17 Q. What were you investigating Humphries for
18 in 2016?

19 MS. JACOBS: Again, objection. That
20 is something that has nothing to do with these
21 proceedings. It's outside of the bounds of -- of this
22 hearing.

23 MR. JUETT: I hear what you're saying.
24 I mean, at least one Commissioner -- Galbraith -- has
25 some questions about this, and I think if -- if you need

1 to hear more about what -- how this relates, I think we
2 ought to hear it.

3 COMMISSIONER GALBRAITH: No, I think
4 I'm satisfied. I'm satisfied that what Mr. Morgan
5 said -- and -- and I think Mr. Humphries gave him the
6 date, I guess -- I think in my mind I'm -- I guess I'm
7 clear right now.

8 Who knows in an hour from now whether
9 I'm going to be clear or not, but I'm clear right now
10 that -- in -- in the case of Humphries -- that his
11 charges that he's being charged for in our packet, which
12 we're asked to -- to, I guess, hear tonight and then --
13 and then come to a conclusion, that it all occurred
14 before he was demoted.

15 MR. JUETT: Okay.

16 COMMISSIONER GALBRAITH: I -- I was --
17 I was not concerned, but I wanted to know if there was
18 anything that he's being charged for that occurred
19 after, because I thought I --

20 MR. MORGAN: Okay.

21 COMMISSIONER GALBRAITH: -- I thought
22 I understood.

23 MR. MORGAN: All right. Let me
24 clarify that then, Mr. Commissioner.

25 Q. Chief, Humphries is not being charged

1 with -- in front of this Commission with anything that
2 happened after January 6, 2016, is he?

3 A. No, sir.

4 Q. All right.

5 COMMISSIONER GALBRAITH: I'm good.

6 Q. I'm sorry. Chief, on November --
7 November 5, regarding Bholat --

8 A. Yes, sir.

9 Q. -- you wrote him up for four
10 unaccounted-for hours, and that became part of your
11 charging document, correct -- even after Bholat gave you
12 his answers, correct?

13 A. It was November what, sir? I'm sorry.

14 Q. 5th.

15 A. That's correct, sir.

16 Q. Okay. November 5 is the day that Richmond
17 police officer Daniel Ellis was shot and killed.

18 Did you know that?

19 A. I didn't recall that, sir, no, sir.

20 Q. Do you know that that's also the same day
21 that Officer Bholat, along with Paris Officers Thompson,
22 Breslin, Wilson, Sandfort and Bouchard, all went to UK
23 Hospital to stand vigil --

24 A. Okay.

25 Q. -- with Ellis' family --

1 A. Okay, sir.

2 Q. -- from the hours of 11:00 to 1:30 that you

3 cited him for for having four unaccounted-for hours? Do

4 you -- do you know that, sir?

5 A. I didn't know that. I asked the question,

6 sir, what was that for.

7 Q. Is that justifiable?

8 A. It would be, sir.

9 Q. Did you write up Thompson, Breslin, Wilson,

10 Sandfort or Bouchard for that?

11 A. I did not see that on -- on their radio

12 traffic, sir, but if that's what that was, to me, that's

13 justifiable, sir.

14 Q. Nevertheless, despite Bholat's answers to

15 you, you still charged him for this, correct?

16 A. He did not answer that, sir.

17 Q. Is that in your report, sir --

18 A. It is.

19 Q. -- that he --

20 A. It is, sir.

21 Q. It is? He just didn't answer that?

22 A. He didn't answer that question.

23 Q. Okay.

24 A. He actually did -- let me check, sir. Hang

25 on just one second.

1 MR. MORGAN: Are you being -- you're
2 not showing him answers, are you?

3 MS. JACOBS: No. No.

4 THE WITNESS: No. This is mine, sir.

5 MR. MORGAN: I know.

6 MS. JACOBS: No, I'm just holding it.
7 Sorry.

8 A. My question to Officer Bholat at the time,
9 on 11/5/15, you marked busy on the radio from 9:14 to
10 01:31, at which time you went off duty; give an
11 explanation/justification for being out of service for
12 four hours with no radio traffic.

13 His answer to me was, due to the remoteness
14 in time I can't recall why I was marked busy that night;
15 however, I would have been performing duties related to
16 the Paris Police Department.

17 If he had responded that that's what he was
18 doing, sir, I would have -- this would have never been
19 in here.

20 Q. Okay. Well, and -- and to be fair to him,
21 you agree with me that you gave -- you gave him this
22 information on a Friday and you said you want your
23 answers on Monday, right?

24 A. That's correct, sir.

25 Q. Do you agree that, given the remoteness of

1 time, that that's an explanation for him not knowing or
2 remembering in that very stressful short period of time
3 that he did not go -- that the reason why he went to --
4 why he was -- had these four unaccounted-for hours?

5 A. I could not answer for Officer Bholat, sir,
6 why he did not remember.

7 Q. Okay. Do you agree with me that those are
8 justifiable -- that is a justifiable reason for these
9 hours?

10 A. Absolutely, sir.

11 Q. And will you remove those from your --

12 A. Absolutely, sir.

13 Q. -- report?

14 A. Yes, sir.

15 Q. What does that put his percentage down to
16 now?

17 A. That was included in the percentage of the
18 time he spent in dispatch, sir.

19 Q. Okay. You're right, but that does pertain
20 to the issues of honesty and efficiency, correct?

21 A. For that one particular charge, yes, sir.

22 Q. All right. Chief, when you were talking to
23 us the other day and you were talking about Primm, you
24 had mentioned that part of the reason that you felt like
25 he needed to be fired is because of prior disciplinary

1 problems.

2 Was -- was -- was the prior disciplinary
3 problem given to the Commission in their packet?

4 A. No, sir.

5 MR. MORGAN: Okay. May we get a copy
6 of what was given to the Commission in this packet,
7 please?

8 MS. JACOBS: They --

9 MR. JUETT: What was given to the
10 Commission?

11 MR. MORGAN: May we get a copy of
12 that, please?

13 MR. JUETT: You can. I think you have
14 everything.

15 MR. MORGAN: I know, but we just want
16 to --

17 MR. JUETT: Sure.

18 MR. MORGAN: -- I just need to have
19 it.

20 MR. JUETT: Yeah.

21 MR. MORGAN: Thank you.

22 Q. Okay. Primm's prior penalty or punishment,
23 discipline, pertained to a social media violation,
24 correct?

25 A. One of them, yes, sir.

1 Q. What -- tell us about the social media
2 violation involving Primm.

3 MS. JACOBS: Do you have it?

4 THE WITNESS: I've got to get it.

5 A. Yes, sir, I have that.

6 Q. Okay. And if you would, tell the
7 Commissioners about that social media violation.

8 A. It states, on Monday, July 19, 2013, you
9 posted on social media -- a Facebook site -- information
10 that involved the Paris Police Department and derogatory
11 comments towards an unknown employee. This posting was
12 in violation of the following Paris Police Department
13 policies, and it lists the policies.

14 Q. And what was his sanction?

15 A. A written reprimand, sir.

16 Q. Were you involved in that?

17 A. No, sir.

18 Q. Paris does have a -- Paris Police
19 Department does have a social media policy, right?

20 A. Yes, sir.

21 MR. MORGAN: May I approach the
22 witness, please, Mr. Juett?

23 MR. JUETT: Yes. I guess I have a
24 question. Is this a charge?

25 MS. JACOBS: No, it is not.

1 MR. JUETT: I mean, what -- how --

2 MR. MORGAN: This is because the chief
3 had said because of prior discipline of Primm that he
4 needs to be fired, so this goes to the second prong of
5 this Commission's decision making and is putting things
6 in context.

7 MR. JUETT: We talked about -- many
8 times now -- about the discipline that should be
9 imposed.

10 MR. MORGAN: See, what they're hearing
11 is -- from the chief -- that he needs to -- Primm needs
12 to be fired, these officers need to be fired for various
13 things.

14 In -- in Primm's case and what we're
15 dealing with now is because of a prior social media
16 violation, and Primm doesn't get to answer that.

17 He doesn't get to put in context what
18 that social media violation is or, for that matter,
19 whether this is some -- if this is conduct that is
20 otherwise tolerated by the Paris Police Department.

21 MS. JACOBS: Again, we're way beyond
22 the bounds of -- of this -- this hearing here.

23 MR. JUETT: I agree, Mr. Morgan. I
24 mean, we're talking -- we're -- we're not focusing on
25 the charges at hand, which -- which is the issue in this

1 case, and we're -- you're talking about prior discipline
2 that -- that was implemented.

3 I just don't see how it's relevant to
4 the substantial evidence standard that we're talking
5 about.

6 MR. MORGAN: You're not going to let
7 me bring it in?

8 MR. JUETT: Correct.

9 MR. MORGAN: Okay. The record will
10 reflect that.

11 Q. Okay. Chief, you -- as I understood your
12 testimony the other day, as assistant chief part of the
13 things were to make sure the position descriptions were
14 accurate, as well as the policies and procedures for
15 the -- for the city police department, correct?

16 A. That is part of the duties.

17 Q. Part the job, okay.

18 MR. MORGAN: Mr. Juett, before I
19 ask -- approach him I have here a copy of the City of
20 Paris position descriptions for all of the Paris Police
21 Department offices from chief to, I believe, secretary.
22 May I present them with --

23 MS. JACOBS: We have presented the
24 position job descriptions for the police officer and
25 lieutenant.

1 I don't know what the chief's job
2 description or the assistant chief's job description has
3 to do with whether these guys violated policies and
4 procedures.

5 MR. JUETT: I mean, do these
6 descriptions relate to these officers?

7 MR. MORGAN: It relates to these
8 officers as well as to the -- well, there -- yeah, we're
9 talking about -- here is one for police lieutenant,
10 captain and -- and officer.

11 MR. JUETT: Well --

12 MS. JACOBS: We -- we've already
13 entered the -- the descriptions for -- the job
14 descriptions for the ones in question.

15 Captain doesn't make any -- I mean,
16 that's not before us. Chief is not before us.
17 Assistant chief is not before us.

18 MR. JUETT: I mean, I think you can go
19 ahead and put them in.

20 MR. MORGAN: Thank you.

21 MR. JUETT: Again, I think the
22 relevance is sketchy, and we keep coming back to this
23 point and I'm trying to give you some leeway here, but
24 we really just -- we cannot confuse the issue, and --

25 MR. MORGAN: I understand.

1 MR. JUETT: -- so if you want that to
2 come in, then --

3 MR. MORGAN: Thank you.

4 MR. JUETT: -- it can come in.

5 MR. MORGAN: This will be Exhibit 8.

6 (Defendants' Exhibit No. 8 was marked
7 for identification.)

8 MR. MORGAN: May I have one of those,
9 please?

10 COMMISSIONER PERRAUT: Yes, sir.

11 MR. MORGAN: Thank you.

12 COMMISSIONER PERRAUT: There you go.

13 Q. Chief, when I -- in looking through these
14 here, on the first page I noticed it's for the police
15 chief, and -- and these are arranged in -- in a
16 hierarchical order as I understand the police department
17 has in -- in the City of Paris.

18 So under the -- under the chief, I would
19 assume there would be the assistant chief, but I notice
20 that the next one is police major.

21 Is there a police major currently?

22 MS. JACOBS: Objection; irrelevant.

23 MR. JUETT: I just -- where are you
24 going?

25 MR. MORGAN: What I want to find out

1 here, Mr. Juett, is the -- the chief's knowledge of the
2 office here.

3 He was talking about how he has
4 reprimanded these officers for not following their
5 positions, not doing what they're supposed to.

6 As police -- assistant police chief
7 part of his job was to make sure that these descriptions
8 and the policies are -- are accurate and up to date, as
9 he -- as he said, and yet he held a job as assistant
10 chief and Chief Best apparently is holding a job that
11 doesn't even exist --

12 MS. JACOBS: Objection.

13 MR. MORGAN: -- in the police
14 department's policies.

15 MR. JUETT: I agree. That's not --
16 the chief is not -- this is not a hearing about the
17 chief's conduct.

18 This is a hearing about whether these
19 officers and there's substantial evidence to support
20 whether these officers have violated City of Paris or
21 City of Paris Police Department policies.

22 MR. MORGAN: Okay.

23 MR. JUETT: It's not about the chief.

24 MR. MORGAN: Okay. So no more
25 questions on that --

1 MR. JUETT: Correct.

2 MR. MORGAN: -- is that what you're

3 telling me?

4 MR. JUETT: Yes.

5 Q. Okay. Chief, I want to go back a few years

6 with you to when you applied to be the assistant chief.

7 MS. JACOBS: Objection; irrelevant.

8 MR. JUETT: Is this different?

9 MR. MORGAN: Yes, it is, because what

10 I want to ask him about here is, on one of these

11 questions that was put to the applicant -- to all

12 applicants -- it says, currently this position will be

13 somewhat focused on supporting the evening shift, both

14 weekdays and weekends, and may require a work schedule

15 between the hours of 12:00 P and 2:00 A, working

16 approximately ten-hour shifts.

17 MS. JACOBS: Okay.

18 MR. JUETT: Is this --

19 MR. MORGAN: Do you have availability

20 concerns with this schedule of shift, and the chief's

21 response is, I am available for all shifts any day of

22 the week.

23 MS. JACOBS: And how is --

24 MR. JUETT: How is --

25 MS. JACOBS: -- that relevant?

1 MR. JUETT: Exactly. How is that
2 relevant to this?

3 MR. MORGAN: It goes to -- the chief
4 said that he was totally unaware of -- of the conduct
5 that's going on in dispatch, and yet when he applied for
6 the job to be assistant chief one of the things was to
7 be on duty during the night.

8 MS. JACOBS: Again --

9 MR. JUETT: Again, you're talking
10 about the chief's conduct. This isn't about the chief's
11 conduct.

12 MR. MORGAN: So no questions about
13 that?

14 MR. JUETT: Correct.

15 Q. All right. Chief, let's look at the --

16 MR. MORGAN: Can I at least show him
17 the policies dealing with discipline in the Paris Police
18 Department?

19 MR. JUETT: The policies dealing with
20 discipline?

21 MR. MORGAN: Yes.

22 MR. JUETT: What policies are we
23 talking about?

24 MR. MORGAN: This is policy number
25 100.060.

1 MR. JUETT: So these are the police
2 department -- City of Paris Police Department?
3 MR. MORGAN: They are indeed.
4 MS. JACOBS: Which we introduced
5 already.
6 MR. JUETT: The policies, I think
7 they're already in the record, so --
8 MR. MORGAN: And again, I don't know
9 that because we weren't given a copy of the packet, so
10 if they -- if the Commissioners have them --
11 MS. JACOBS: They were introduced --
12 MR. MORGAN: -- I am --
13 MR. JUETT: They were not in the
14 packet.
15 MS. JACOBS: -- on Monday.
16 MR. JUETT: The packet contains the
17 charges and the summary of investigation by the chief.
18 That's it.
19 MR. MORGAN: Okay.
20 MR. JUETT: The rest --
21 MR. MORGAN: This is the whole policy.
22 Was the whole policy --
23 MS. JACOBS: I believe so.
24 MR. MORGAN: -- all 100.060?
25 MS. JACOBS: I believe so.

1 MR. JUETT: If you want to introduce
2 the --

3 MS. JACOBS: That's fine.

4 MR. JUETT: -- the whole policy --

5 MR. MORGAN: That'd be great.

6 MR. JUETT: -- I think that's fine.

7 MR. MORGAN: Yeah. That would save a
8 lot of time. This will be Exhibit Number 9.

9 (Defendants' Exhibit No. 9 was marked
10 for identification.)

11 COMMISSIONER PERRAUT: Do you want one
12 back?

13 MR. MORGAN: No, I took mine.

14 Q. Chief, if you'll look over that and make
15 sure that this is all the -- these are all the
16 policies -- all 15 pages -- and that these are a fair
17 and accurate copy.

18 A. It appears to be, sir.

19 Q. Okay. And to your knowledge, these are the
20 policies that exist today?

21 A. Yes, sir, it appears to be.

22 Q. Okay. On the first page here, sir, it says
23 the policy, on number one, it's the Paris Police
24 Department's policy to impose disciplinary action fairly
25 and impartially.

1 The next line says, discipline is a process
2 of imposing formal sanctions which will help train or
3 develop an employee, preferably through constructive
4 rather than punitive measures, and the last line of that
5 paragraph says, as a last resort, punitive action.

6 So what you're asking of this Commission is
7 to approve the last resort, which is punitive action,
8 and of the last resort, this is the very last resort,
9 because we're talking about firing these men, right?

10 A. That's correct, sir.

11 Q. If you'll look down on the bottom of this
12 same page, sir, under policy 3.01.02 it says, the Paris
13 Police Department shall -- does provide employees with
14 lists of specifically prohibited behavior. This
15 behavior appears on policy, but no list can be all
16 inclusive.

17 Do you agree with me that the policies
18 dealing with hanging out in dispatch -- prohibiting
19 that -- they are not in a specific list anywhere,
20 correct?

21 A. They -- they are not in policy, no, sir.

22 Q. It goes on to say, employees are expected
23 to have a reasonable perception of what constitutes
24 proper behavior based on academy training and the
25 observance of the proper behavior of officers in

1 general?

2 A. Yes, sir.

3 Q. So going back to the point of Captain Elkin
4 being in dispatch --

5 MS. JACOBS: Objection; irrelevant.

6 Q. -- is that an example of proper behavior of
7 officers -- the observance of the proper behavior of
8 officers in general?

9 MS. JACOBS: Objection; irrelevant.

10 MR. JUETT: We've already been over
11 this, Mr. Morgan.

12 Q. Okay. If you'll turn the page, please,
13 Chief, and under Section 5.02 -- that's going to be on
14 the bottom half of that page --

15 A. Yes, sir.

16 Q. -- it says, disciplinary action is intended
17 to be corrective and progressive in nature.

18 What does that mean to you?

19 A. (No response.)

20 Q. Go ahead, Chief.

21 A. May I think about my answer?

22 Q. Oh, I'm sorry; I thought you were trying to
23 figure out what was going on back there.

24 A. Corrective and progressive, sir, to me
25 means that there are different levels of violations, and

1 with each level of violation there are different actions
2 taken for that degree of violation.

3 Q. Okay. Would you agree that an officer
4 committing a crime is a far more serious matter than an
5 officer committing some administrative violation?

6 A. I would say, in my opinion, breaking the
7 law would be more serious, yes, sir.

8 Q. Even a DUI?

9 A. Yes, sir.

10 MS. JACOBS: Objection; irrelevant.

11 MR. MORGAN: I'm sorry?

12 MR. JUETT: Go ahead.

13 MS. JACOBS: No.

14 MR. MORGAN: I can ask?

15 MS. JACOBS: No, Your Honor, I object.
16 He's doing it again. You've said what's relevant,
17 you've said what's not relevant, and he's just going on
18 and on and on to try and poison or, you know, infect the
19 Commission with things that aren't relevant.

20 None of these guys are charged with a
21 DUI. It's not in the charges. It's not relevant,
22 period, end of story.

23 MR. MORGAN: Mr. Juett, as the chief
24 has shown here, has testified and has laid out in this
25 document, the policy, you know, we're talking about

1 corrective and punitive -- I'm sorry; corrective and
2 progressive and designed to encourage the member to
3 conform, and the chief was just talking about putting
4 this in the proper perspective or context as to what
5 type of -- what type of corrective and progressive
6 conduct needs to be done.

7 MR. JUETT: And you asked him his
8 opinion on it.

9 MR. MORGAN: Uh-huh.

10 MR. JUETT: He answered it.

11 MR. MORGAN: Right. Okay. So -- and
12 I said, a DUI, even in a different county --

13 MS. JACOBS: Judge, that's --

14 MR. MORGAN: -- and that's when we got
15 to where we are now, Judge.

16 MR. JUETT: Again, though, you're --
17 these are not facts that are -- that are present in
18 these particular -- this particular case.

19 There's -- there's no DUI in another
20 county. There are no criminal actions that anyone is
21 charged with, to my knowledge.

22 MR. MORGAN: No --

23 MR. JUETT: So what --

24 MR. MORGAN: -- not -- none of these
25 officers.

1 MR. JUETT: It doesn't appear
2 relevant.

3 MR. MORGAN: It's relevant -- well,
4 okay. We -- I -- I don't want to beat a dead horse, but
5 I'm saying that this is relevant to put this in
6 perspective, put this in context when we're talking
7 about administrative violations sanctioned -- in this
8 case, firing -- versus an officer who's convicted of a
9 crime and whatever sanction that person gets, which is
10 not termination.

11 MR. JUETT: And I -- I understand what
12 you're doing, and I think your point is made. I think
13 we keep coming back to this and we keep having to say
14 overruled, overruled, overruled.

15 Why don't we just move on to questions
16 that are relevant to this proceeding?

17 MR. MORGAN: I am, sir.

18 MR. JUETT: I don't believe you are,
19 so we would like to stop this line of questioning.

20 Q. Chief, if you -- okay. Chief, if you'll
21 look at the next item here, 5.03, generally the
22 discipline shall be designed to encourage the member to
23 conform to the established standards of performance or
24 conduct except those instances where the actions of the
25 employee are not conducive to rehabilitation or make

1 continued employment with the department clearly
2 unacceptable.

3 Chief, as I understood what you were
4 telling us is that in most of these instances -- most of
5 these men here -- after the December 8 email went out
6 talking about don't stay in dispatch anymore, their time
7 in dispatch was very small certainly compared to what it
8 had been in October and November, correct?

9 A. Time in dispatch, yes, sir.

10 Q. So it does seem that putting out that email
11 did make a difference, correct, for time in dispatch?

12 A. For the place that they stayed, not for the
13 behavior.

14 Q. Oh. Well, what do you mean by that?

15 A. If you look in the other column --
16 especially for the supervisors -- the behavior changed
17 none.

18 Q. The behavior being what, being --

19 A. Of being in --

20 Q. -- at headquarters too long?

21 A. -- being in this building too long.

22 Q. Doing -- and you don't know what they were
23 doing, right?

24 A. (No response.)

25 Q. Correct?

1 A. I don't know exactly what they were doing,
2 no, sir.

3 Q. Isn't it true that the only scanners that
4 can be put -- that these officers -- lieutenants -- can
5 use to file reports in the computer system here at the
6 Paris Police Department, those scanners only exist in
7 this building?

8 A. That's correct, sir.

9 Q. Did you know that they were here scanning
10 records so that they could put them into the computer
11 system here?

12 A. Every night for hours? No, sir, I do not
13 believe that.

14 Q. Don't think that's the case?

15 A. No, sir, I do not.

16 Q. Okay. But you don't know, do you?

17 A. (No response.)

18 Q. I mean, you -- you weren't here, right?

19 A. No, sir, I wasn't.

20 Q. Isn't it true that when paperwork is filed
21 by these supervisors -- not just scanning papers -- not
22 just scanning stuff, but the actual paperwork that's got
23 to be filed with the secretary -- with your secretary --
24 that's done here in this building, correct?

25 A. The -- are you talking about putting the

1 case jacket together after you scan it?

2 Q. Putting the physical paper -- the file
3 together.

4 A. The file is brought to headquarters, yes,
5 sir.

6 Q. Okay. So what I hear -- let's set aside
7 then the lieutenants, so Primm, Bholat and Anderson --
8 you agree with me that when that email went out their
9 time in dispatch went way down?

10 A. No, sir, not Officer Bholat.

11 Q. How did his not go down?

12 A. In December, after the email, on
13 December 24, 59 minutes; December 25, an hour and 35
14 minutes; December 31, 53 minutes.

15 Q. On the -- on those occasions there that
16 you're talking about, on Christmas Eve where he was here
17 for an hour, he came in on five separate times, correct?

18 A. Yes, sir.

19 Q. On Christmas Day, where you say he was here
20 an hour and thirty-five minutes, he came in six
21 different times, correct?

22 A. Yes, sir.

23 Q. What about -- you like to point out Bholat,
24 but Primm and Anderson, their time was negligible,
25 right?

1 A. I did not -- I did not have them in
2 dispatch much after that, sir.

3 Q. So it worked?

4 A. I don't know that that's what worked or
5 not, sir.

6 Q. Well, what -- what do you -- what do you
7 want to see? If you say, don't be in dispatch, and
8 they're not in dispatch, what more do you want to see
9 from them?

10 A. In the past this same thing was done over
11 and over. If you -- if you're talking about changing
12 behavior, behavior is changed. If behavior changes, I
13 shouldn't have to say it but once, not several times
14 over the years.

15 Q. If you have to say it several times over
16 the years, does that suggest that there's an
17 institutional problem or problem in leadership?

18 A. No, sir, because that's why we're here.
19 I'm -- I'm taking that leadership role. I'm doing my
20 duty to this government and to the citizens of Paris.

21 Q. Why not change to put in a policy rather
22 than just sending out an email that has -- that says
23 effective immediately?

24 A. Since I know the depth of which this has
25 reached and the amount of time that they were spending

1 in there now, trust me, sir, there will be a policy.

2 Q. If you want to talk about the amount of
3 time spent on this, you and Chief Best spent a
4 considerable amount of time, right --

5 A. Yes, sir.

6 Q. -- doing nothing but this?

7 A. Yes, sir, we did.

8 Q. And you didn't confront these guys, you
9 didn't -- you didn't tell these guys, this is what I
10 found, this is it, last chance, one more time and you're
11 out of here, didn't give them any suspension, telling
12 them that this warrants a week off, two weeks off,
13 whatever, correct?

14 A. No, sir.

15 Q. You want them fired?

16 A. The -- the acts had already been committed.

17 Q. The acts had been committed, but we've seen
18 and you've said that at least as far as Primm and
19 Anderson are concerned they're not doing it anymore?

20 A. For the time being, no, sir.

21 Q. Well, after you sent the -- after the email
22 was sent --

23 A. That's what I said, for the time being,
24 sir, no, sir, you're correct.

25 MAYOR THORNTON: Mr. Morgan, can we

1 take a five-minute break?

2 MR. MORGAN: Sure. Yes, sir.

3 (Recess taken.)

4 MAYOR THORNTON: Counselors, are you
5 both ready?

6 MR. MORGAN: Yes.

7 MAYOR THORNTON: Mr. Thomas, if you
8 could restore order. Sorry.

9 Mr. Morgan, I think you still had the
10 floor --

11 MR. MORGAN: Thank you, Mayor.

12 MAYOR THORNTON: -- or whatever the
13 procedure is.

14 MR. MORGAN: Yeah, floor works.

15 Q. Chief, we were looking at the code of
16 conduct, the disciplinary policy, and I think we had
17 finished all that I really had to ask you about on page
18 two.

19 If you'll turn to page three, please, in
20 the middle of that page, under 6.02.01 it says, the
21 chief will conduct the investigation and notify the
22 member that a complaint has been made and the complaint
23 is being investigated; the chief will conduct the
24 investigation in accordance with KRS 15.520.

25 You -- as I understand it, you did not

1 notify these men that you were doing an investigation of
2 them, correct?

3 A. No, sir, I did not.

4 Q. Okay. Despite what this policy says?

5 A. They were notified February the 5th.

6 Q. Okay. With the -- with the charging
7 documents?

8 A. With the questionnaires, with the
9 responses --

10 Q. Okay.

11 A. -- yes, sir.

12 Q. Okay. Why wait until then?

13 A. I notified them after I had watched all the
14 video to find out what I was going to find out --

15 Q. Okay.

16 A. -- so I knew what responses I would have to
17 ask -- ask from them.

18 Q. Okay. And -- and as -- as you mentioned
19 earlier, even during this time of your investigation you
20 not only did not tell the -- failed to inform these
21 guys, but you even put Puckett over the area that you're
22 investigating, right?

23 A. Sir, at that point I had not reviewed any
24 video.

25 Q. On December the 14th or whenever that was?

1 A. Yes, sir. The only video I had seen was on
2 the initial complaint of that one particular night.

3 Q. Which we saw just earlier today, but -- but
4 he -- you put him in on the 14th and you left him in,
5 right?

6 A. I did, sir.

7 Q. Let's turn the page, please. Well, I'm
8 sorry; I'm still on page three, and this -- underneath
9 the investigation of complaints it says, types of
10 investigations -- I'm sorry; types of disciplinary
11 actions?

12 A. Yes, sir.

13 Q. The first one is about oral reprimands?

14 A. Correct, sir.

15 Q. And will you agree with me these are laid
16 out in more and more serious discipline, a progressive
17 order from least serious discipline to most serious?

18 A. Yes, sir.

19 Q. Okay. If you'll turn, please, to page
20 five, and under policy 7.01.04 it says, the oral
21 reprimand slash counseling may involve remedial
22 training. It talks about how training may be necessary
23 and even going to the academy or in-service.

24 It says, the training specially created to
25 accomplish the department's recommendations to correct

1 or modify the employee's behavior.

2 You took no steps to develop any type of
3 training or other method by which to address these men's
4 behavior, did you, other than firing them?

5 A. No, sir. They -- each time over -- I know
6 the years that I've been here -- each time that they
7 were told not to be in there, I considered that.

8 That -- that is -- that's counseling, stop
9 doing this, don't do this. How many times do you have
10 to tell them not to do this?

11 Q. Good point. Where in the records -- show
12 us, please, in their personnel records those times that
13 you told them, don't do this.

14 A. There's none in their personnel records,
15 sir.

16 Q. Why not?

17 A. Because it is something that they were
18 told. They have been told over and over and over, and
19 if they are honest with you, they will tell you the same
20 thing.

21 Q. Chief, if somebody is told over and over,
22 the -- do you agree with me that this policy about
23 discipline talks about progressing to more and more
24 serious penalties, correct?

25 A. Based on the violation -- the seriousness

1 of the violation that was committed, sir. You don't
2 have to follow in order for every act of violation.

3 Q. Okay. Returning to the -- what's in
4 writing, though, okay, here on page five, this is
5 7.01.05, the next paragraph down, if the employee has
6 not behaved improperly following the oral
7 reprimand/counseling for one year, the record of the
8 oral reprimand shall be expunged.

9 So Chief, this talks about a record of
10 being told time and time again, that that goes into
11 their record, and if they have a clean record for a
12 year, then that gets removed from their record.

13 You know what expungement is, don't you,
14 Chief?

15 A. Yes, sir, I do.

16 Q. The -- are you telling us that these guys
17 have had oral reprimands that has been -- have been
18 expunged from their records?

19 A. They have not had an oral reprimand, sir.

20 Q. It never went into their record, right?

21 A. No, sir.

22 Q. And -- and this allows --

23 A. The --

24 Q. I'm sorry; go -- I don't want to interfere.
25 Go ahead, please.

1 A. The warnings that they were given --
2 Q. Yeah.
3 A. -- every time that they were told by their
4 supervisors or coming from my office or Chief Sutton's
5 office prior to me or any chief before me that told them
6 to stay out of there, yes, sir, that, to me, is a
7 counseling, stop doing this behavior.
8 Q. Okay. And this policy here allows for oral
9 reprimands to be documented and to go into somebody's
10 personnel file to show that they have been orally told,
11 don't do that?
12 A. It does allow for that, sir.
13 Q. And it -- but that was not done in any of
14 these five cases, was it?
15 A. It was done as a department. It wasn't
16 done individually. The whole department was told.
17 Q. Okay. So there's a department personnel
18 file that says that everybody was told this?
19 A. Sir, it was given out as a department.
20 It's the standing order, don't be hanging out in
21 dispatch.
22 Q. Chief, and that is based on those -- what
23 the -- the staff agenda that you showed us the other
24 day, is that -- is that where the standing order comes
25 from?

1 A. There was a few of those, yes, sir.

2 Q. Why not go to the trouble of documenting in
3 some individual who's particularly egregious in
4 violating this standing unwritten order, to just at
5 least put in their personnel record that they were told
6 not to do this anymore? Why not go to that trouble?

7 A. There is -- if you're talking about oral
8 reprimands, no, it was not in his file, but that was
9 conducted on one officer.

10 Q. Okay. Sir, my -- my question is, why not
11 go to the trouble of putting it in their document --
12 into their personnel record?

13 A. Until this point that I started this
14 investigation I did not realize how egregious that this
15 violation -- these violations were.

16 Q. Well, Chief, I thought you just said a
17 second ago that they've been told time and time and time
18 again, don't do this?

19 A. They have, sir, and as I said Monday, I had
20 heard at different times that somebody would say,
21 there's a couple of officers or an officer that's been
22 spending too much time in dispatch. It would be talked
23 about then.

24 Did I know the level that it was? No, sir,
25 I did not -- until I started this investigation.

1 Q. But you're the guy in charge.

2 A. Yes, sir, and that's why we're here,
3 because I am the one in charge.

4 Q. Okay. So -- but -- all right. Let's --
5 let's move down here to written reprimands, which is on
6 the same page, 7.02.01. A written reprimand issued by
7 the chief cautions an employee about poor behavior, sets
8 forth the corrected and/or modified behavior mandated by
9 the department and specifies the penalty.

10 So this is the kind of thing where you say
11 to people, stop it, if you do it again this is what's
12 going to happen, right?

13 A. Yes, sir.

14 Q. That was not done in this case, was it?

15 A. It was done to two officers in this case.

16 Q. Two officers?

17 A. Yes, sir.

18 Q. Which ones?

19 A. There were two officers that were given
20 written reprimands.

21 Q. I'm talking about the five here at this
22 table.

23 A. No, sir, none -- none of these officers,
24 correct.

25 Q. What were the -- okay. I don't need to

1 know who the two were.

2 Did one of them apologize for this, though?

3 A. Apologize for what, sir?

4 Q. For hanging out in dispatch too long.

5 A. I'm trying to remember. Yes, sir, one of
6 them did.

7 Q. Okay. Had any of these five officers
8 apologized to you would they have been -- would they be
9 facing termination?

10 A. Yes, sir, they would.

11 Q. But the guy who did apologize, he was
12 absolved and was given a written reprimand?

13 A. Sir, that had nothing to do with his
14 apology.

15 Q. But let's talk about the five here. No
16 written reprimand has ever been issued to any of these
17 five men for hanging out in dispatch too long or being
18 at headquarters too long or leaving their car running
19 too long, anything like that, correct?

20 A. You're correct, sir.

21 Q. Same page, towards the bottom of it, 7.03,
22 demotion or suspension without pay, if the situation
23 warrants, the Chief of Police, in consultation with the
24 City Manager, Mayor and City Commission, may demote an
25 employee or suspend without pay.

1 I heard you say that you talked to the
2 manager, but I heard you also say you did not talk with
3 the Mayor or the Commissioners, correct?

4 A. I did not talk with either of those, no,
5 sir, I did not.

6 Q. But you did talk to the manager?

7 A. I did, sir.

8 Q. And you relied on what the manager had to
9 say --

10 A. Yes, sir.

11 Q. -- is that right?

12 A. Yes, sir.

13 Q. He was your consultant?

14 A. I did advise him of the situation, what was
15 going on, yes, sir.

16 Q. When was that that you advised him of the
17 situation?

18 A. Sir, I'm not exactly sure what that date
19 was. It was -- it was prior to.

20 Q. Well, yeah, but about when? A week before?
21 A month before? What?

22 A. I believe it was the week prior.

23 Q. So if this --

24 A. I don't know which day.

25 Q. Okay. If these notices were given to the

1 gentlemen on Friday, the 5th --

2 A. Yes, sir.

3 Q. -- would it have been sometime that same
4 week before the 5th?

5 A. It would have been that -- that week, yes,
6 sir.

7 Q. All right. Now, you know, we talked about
8 the City of Paris policy says that you're suppose to get
9 the permission of the Commission, but this is the police
10 department's policies --

11 A. Yes, sir.

12 Q. -- and you said you did not talk to the
13 Mayor and Commission.

14 Why not?

15 A. I advised the City Manager, sir. I did not
16 speak with the Mayor and City Commission. I cannot tell
17 you why not. I just did not.

18 Q. Well, I think you need to say why not.

19 Why -- why didn't you?

20 MS. JACOBS: I'm -- I'm going to
21 object that -- that he's implying some kind of
22 requirement to do that, and there is no such
23 requirement.

24 MR. JUETT: He said he didn't remember
25 why.

1 Q. Well, is it -- I mean, are you saying that
2 you made a mistake, Chief, or what? I'm trying to
3 figure out what it is.

4 MR. BEAUMAN: Objection.

5 MR. JUETT: Go ahead.

6 MR. MORGAN: What?

7 MR. JUETT: Go ahead. He didn't --

8 A. I'm saying I don't remember, sir.

9 MR. JUETT: Yeah.

10 Q. Okay.

11 COMMISSIONER GALBRAITH: May -- may I
12 ask a question at this point? When we're looking at,
13 let's say, police policy and then we're looking at City
14 of Paris policy, City of Paris policy, does it have --
15 does it supercede the Paris Police?

16 Because somewhere in -- in looking
17 through this thing it says -- and this is on the -- this
18 is on the Paris -- City of Paris policy, it talks
19 about -- anyway, it -- there's a whole bunch of jargon
20 here, but anyway, it says, however, the City reserves
21 the right to skip or modify any step or requirement in
22 the disciplinary action sequence outlined below, and
23 that's where it talks about verbal warnings and, you
24 know, written warnings and stuff, and nothing about
25 these measures shall alter an employee's at-will status.

1 So if -- am I -- am I getting -- am I
2 getting -- I don't want to say confused -- about what
3 we're trying to do here or what, because I think
4 Mr. Morgan -- I think -- I think Mr. Morgan's point is
5 that maybe this didn't happen, this didn't happen and
6 this didn't happen, but if I read this, I don't have to
7 do A and B and C and D; I can go from A to D to Z. Is
8 that how I read this?

9 MR. JUETT: Well, I think that's --
10 that's for --

11 COMMISSIONER GALBRAITH: Is that --

12 MR. JUETT: -- the Commission to
13 determine.

14 COMMISSIONER GALBRAITH: Okay. All
15 right. That's fine.

16 MR. JUETT: Yeah.

17 COMMISSIONER GALBRAITH: Okay. All
18 right.

19 MR. MORGAN: Well, and if I may --

20 COMMISSIONER GALBRAITH: I don't want
21 to influence anybody else, but anyway, that's --

22 MR. MORGAN: -- if I may, Mr. Juett --

23 MR. JUETT: Uh-huh.

24 COURT REPORTER: I'm sorry; I didn't
25 hear what you said.

1 MR. MORGAN: I said, if I may.

2 As -- as -- I mean, we're not
3 dealing -- we're -- we're trying to be on the same page
4 here on this Paris Police Department policies -- not the
5 City policies -- that's what we're talking about now --
6 and the policies dealing with police officers pertain
7 to -- also rely on 15.520, which is not at-will.

8 That's exactly why we're having this
9 instead of an at-will proceeding. This is -- this is a
10 far cry from an at-will employment situation. Do you
11 agree with that, Mr. Juett?

12 MR. JUETT: Well, 15.520 applies -- we
13 will say that -- and --

14 MR. MORGAN: And these officers need
15 to be fired --

16 MR. JUETT: -- and I can't speak to --

17 MR. MORGAN: -- for cause, which is
18 different than at-will.

19 MS. JACOBS: To the extent he's asking
20 a legal conclusion to be confirmed by the body right
21 now, I think that's totally inappropriate.

22 COMMISSIONER GALBRAITH: No, no, no,
23 and that was never my intent. I just --

24 MS. JACOBS: No, no, I'm talking about
25 Mr. Morgan was asking that.

1 MR. JUETT: Right.

2 MS. JACOBS: I think that's totally
3 appropriate. Your question is totally appropriate; his
4 is not.

5 MR. MORGAN: I'm in the wrong.

6 MR. JUETT: So are you okay for now
7 and --

8 COMMISSIONER GALBRAITH: I'm okay for
9 now.

10 MR. JUETT: Okay.

11 MR. MORGAN: Okay. I'll move on.

12 Q. Chief, we're on -- I'm on page six of the
13 policies and procedures --

14 A. Yes, sir.

15 Q. -- dismissal, 7.04.01 --

16 A. Yes, sir.

17 Q. -- dismissals are made in cases of extreme
18 misfeasance, malfeasance or nonfeasance of duty. A
19 complete record of the circumstances of the misbehavior
20 shall be made by all persons having knowledge of the
21 misbehavior.

22 As I understood you to say on Monday
23 when -- when I first started asking you questions, you
24 said that there's no doubt that these men did their job,
25 they're not here because they didn't do their job?

1 A. I said I never accused them of not working,
2 sir, of not doing some work. I've never said that they
3 didn't do some work.

4 Q. So extreme nonfeasance, that -- that's
5 checked off?

6 A. Yes.

7 Q. We're not dealing with that, right?

8 A. Are you saying it's checked off that that
9 doesn't apply?

10 Q. Right.

11 A. (No response.)

12 Q. I mean, because you're saying -- what does
13 nonfeasance mean to you?

14 MR. BEAUMAN: What -- I'm sorry;
15 Mr. Whitley, what did you say?

16 MS. JACOBS: What did --

17 MR. MORGAN: I asked what does --

18 MR. BEAUMAN: No, I -- I didn't hear
19 the comment from Mr. Whitley.

20 MR. WHITLEY: I just want to make sure
21 we're not writing notes for him to look at as he's
22 answering.

23 MS. JACOBS: I'm left-handed.

24 COURT REPORTER: I'm sorry; can you --
25 wait.

1 MS. JACOBS: I apologize that I'm
2 left-handed.

3 COURT REPORTER: Mr. Whitley, I need
4 you to speak up. I'm sorry.

5 MR. WHITLEY: I'm just making sure
6 we're -- because every time I see your hand move I see
7 him looking down at your paper.

8 MS. JACOBS: He's looking here --

9 THE WITNESS: Sir, I'm sitting here --

10 MS. JACOBS: -- and I'm writing with
11 my left hand.

12 THE WITNESS: -- looking at this
13 paper. I -- I am not looking at her paper.

14 MR. WHITLEY: Okay. I apologize.

15 MR. MORGAN: We're not -- we're not
16 saying that.

17 MS. JACOBS: Yes, you are accusing us
18 of doing that, and that is totally inappropriate and
19 you -- you know that.

20 MR. WHITLEY: I apologize.

21 MS. JACOBS: Yes, thank you.

22 Q. Okay. We're back to the matter at hand,
23 Chief.

24 I was asking, what does nonfeasance mean to
25 you?

1 A. Nonfeasance of their duty is that they are
2 not -- they are not performing their duty. It's a
3 dereliction of duty, that they're not performing the
4 duty that they were hired for.

5 Q. Okay. How is that different than
6 malfeasance?

7 A. Sir, you're asking for -- for a definition
8 I don't know.

9 Q. Okay. Misfeasance?

10 A. Same, sir.

11 Q. Okay. When -- what does it mean to you
12 when -- when this says, a complete record of the
13 circumstances of the misbehavior shall be made by all
14 persons having knowledge of the misbehavior?

15 A. (No response.)

16 Q. What does that mean to you, sir?

17 A. Any person -- to me, any person taking part
18 in this investigation or the -- of the misbehavior that
19 was done or having knowledge of the misbehavior.

20 Q. Right. So -- and I understood you to say
21 the other day that you did not talk to -- much less make
22 a record of -- what the dispatchers were saying because
23 you could see it on the video and you -- you didn't need
24 to talk to them? You just -- you didn't make a record
25 of what the dispatchers had to say, correct?

1 A. No, sir, I didn't.

2 Q. Do you think that they would be considered
3 persons having knowledge of the misbehavior?

4 A. I don't know what -- what their knowledge
5 was, sir.

6 Q. Good point. Do you think, sir, that -- why
7 do you think that such extraordinary measures here --
8 where you -- where it says, a complete record of the
9 circumstances shall be made by all persons having
10 knowledge, why do you think that it's required for
11 dismissals as opposed to written reprimands or oral
12 counseling?

13 A. Sir, I completed this investigation and I
14 have a complete record of my investigation and all
15 documents.

16 Q. No, I'm sorry; my question was, why do you
17 think that it requires this extra effort to be done
18 before you fire somebody?

19 A. So the effort was put in, and I'm sure that
20 is written to make sure that nobody is fired that --
21 that should not be fired.

22 Q. To make sure that you know and that this
23 Commission knows what everybody has to say about this?

24 A. Yes, sir.

25 Q. Turn the page, please. I'm on page seven.

1 I'm looking at Section 9 --

2 A. Yes, sir.

3 Q. -- 9.02, after the written charges are
4 preferred by any person and filed with the City Clerk
5 and the Mayor determines that probable cause exists, a
6 hearing will be held in accordance with 15.520, peace
7 officer Bill of Rights?

8 A. Yes, sir.

9 Q. And in this case you're the person who's
10 brought these charges or preferred them.

11 Is there a file stamped copy with the City
12 Clerk?

13 A. Yes, there should be.

14 Q. Okay. Was that done when you gave these
15 guys these charges or was that done sometime later?

16 A. That -- that was done I believe that --
17 that afternoon -- or after they were given their
18 copies --

19 Q. Okay.

20 A. -- that same day.

21 Q. Okay. And does it reflect on those charges
22 that the Mayor determined that probable cause exists?

23 A. No. No, sir, I do not believe it does.

24 Q. Okay. Because you didn't -- as I recall, a
25 minute ago you said you didn't even talk to the Mayor

1 about bringing --

2 A. I said --

3 Q. -- before bringing these charges?

4 A. No, sir, that's -- or I'm sorry; that's
5 correct, sir.

6 Q. Okay. So the Mayor did not determine that
7 probable cause exists, did he?

8 A. Packets were made with -- with the evidence
9 that I had. They were distributed to the Mayor and to
10 the Commissioners, sir.

11 Q. But that's -- my question, Chief, is, the
12 Mayor did not determine that probable cause exists?

13 MS. JACOBS: We're not --

14 MR. BEAUMAN: And we addressed this at
15 the beginning of the hearing, so let me object to this
16 line of questioning, because that's not what 15.520 lays
17 out and that's not the procedure.

18 To the extent that that SOP conflicts
19 with the statute, we have to follow the statute, and I
20 think we addressed this when we made one of our
21 objections at -- before we even started the hearing.

22 MR. MORGAN: Well, and if I may, very
23 briefly, I -- I think we all understand the maxim that
24 specific controls general.

25 I don't think there's any restriction

1 in the peace officer Bill of Right to allow a city to do
2 something more to safeguard the rights of peace
3 officers.

4 But, you know, be that as it may, I'm
5 just -- that may be for another -- another matter or
6 another hearing to determine whether this is violative
7 of the City of Paris' policies.

8 Q. Let me just finish up here, if I may,
9 Chief.

10 A. Yes, sir.

11 Q. I'm correct in understanding that the Mayor
12 did not make a determination that probable cause exists
13 before -- before any point in time? I mean, he hasn't
14 done that yet, correct?

15 MS. JACOBS: Well, and I'm going to
16 object to what the chief knows about what the Mayor has
17 or has not done. I mean --

18 MR. MORGAN: Okay.

19 MS. JACOBS: -- you can ask about what
20 the chief did, but not about what the Mayor did.

21 Q. You have not given this to the chief for
22 him to make a probable cause finding before -- the
23 Mayor, I'm sorry.

24 Chief, you have not given the Mayor these
25 charges to make a probable cause determination, correct?

1 A. Again, you're asking me what constitutes
2 that. He was given all the information. What he did
3 with that afterwards, sir, I cannot answer.

4 Q. All right. Well, you know, I really hate
5 to do this, but let's -- let's look at the language of
6 this -- of this policy --

7 MS. JACOBS: No --

8 Q. -- and this is the policy of the police
9 department.

10 MS. JACOBS: -- I'm going to -- again,
11 we've gone over this. 15.520 rules. Even at the
12 beginning of the policy the intent is to comply with
13 15.520.

14 You know, if there was a procedural
15 issue, this is not the time and place. This is a
16 fact-finding hearing.

17 MR. MORGAN: And so -- so now we're
18 not worried about procedure. I mean, we're just here
19 dealing with fact finding as -- as a very narrow
20 expression. I mean, I --

21 MR. JUETT: Today that's -- the
22 hearing is about that, is about the substantial evidence
23 to support any finding.

24 MR. MORGAN: Pursuant to procedure.

25 MR. JUETT: To 15.520.

1 MR. MORGAN: And due process rights
2 apply. Okay. I'll -- I'll move on.

3 MR. JUETT: Thank you.

4 MR. MORGAN: I'll move on.

5 Q. Under 9.05, Chief, it says, the hearing is
6 an administrative hearing and formal Rules of Evidence
7 are relaxed. Hearsay rule -- hearsay evidence is
8 admissible. The Paris City Commission will only
9 consider matters presented in the charges.

10 A. Yes, sir.

11 Q. If you'll turn the page, please, page
12 number eight, the Section 10, infractions and
13 punishments, 10.01, except in matters of gross
14 malfeasance, supervisors should attempt to begin
15 employee discipline with the least punitive measure.

16 And -- and as we've heard, it's your
17 position that this is gross malfeasance and you don't
18 need to begin -- you don't even need to attempt to begin
19 employee discipline with the least punitive measure?

20 A. That's correct, sir.

21 Q. The latter part of this same paragraph
22 says, if the least punitive does not work, then
23 increasingly more severe measures may be required.

24 Do you agree with me that this is what's
25 considered progressive discipline?

1 A. That is one measure of progressive
2 discipline, sir, but I'm also taking in that I believe
3 this is gross malfeasance, the actions that they have
4 committed.

5 Q. Chief, you -- you examined, you said, 14
6 persons on the force?

7 A. That's correct, sir.

8 Q. Did you ever tell anybody that the -- that
9 this number of persons was being examined because
10 everybody got included so that it does not look like it
11 was retaliatory?

12 MS. JACOBS: Objection; irrelevant.

13 MR. JUETT: It's sustained. We've
14 been here --

15 MR. MORGAN: All right. That's all
16 the questions --

17 MR. JUETT: -- on retaliation.

18 MR. MORGAN: -- I have. Thank you.

19 MR. JUETT: Thank you.

20 MR. MORGAN: Oh, I do have one thing.
21 I'm sorry.

22 Q. Chief, what is CALEA?

23 COURT REPORTER: I'm sorry; what is
24 what?

25 MR. MORGAN: CALEA, which stands --

1 K-A-L-E-A -- I'm sorry; C-A-L-E-A.

2 Q. Do you know what CALEA -- CALEA is a
3 certification?

4 A. I know it's a certification. If you're
5 asking me what all it -- what it stands for, I can't
6 give it to you right now, sir.

7 Q. Okay. And the City of Paris is CALEA
8 certified, correct?

9 A. I don't know if we -- oh, you're talking
10 about the City of Paris?

11 Q. The City of Paris Police Department.

12 A. Oh, the police department? I know we're
13 KACP certified.

14 Q. Okay.

15 A. We do get a certification through KACP.

16 Q. And for the Commissioners, why don't you
17 tell them what that --

18 A. I'm sorry; it's --

19 Q. -- what we're talking about, please.

20 A. -- it's a certification through Kentucky
21 Association of Chiefs of Police where they come in and
22 make sure that you're up to standards with other police
23 departments.

24 Q. And do you know whether they rely upon
25 CALEA?

1 A. Sir, I do not know.

2 Q. Okay. If -- if I may, do you agree, Chief,
3 that CALEA is the acronym for Commission on
4 Accreditation for Law Enforcement Agencies --

5 A. Yes, sir.

6 Q. -- which is a national organization --

7 A. Yes, sir.

8 Q. -- out of Virginia?

9 A. That's correct, sir.

10 MR. MORGAN: That's all I have. Thank
11 you.

12 MAYOR THORNTON: Ms. Jacobs, you can
13 call your next witness.

14 MS. JACOBS: I'm going to redirect the
15 chief -- and probably until dinnertime. Okay?

16 MAYOR THORNTON: Okay.

17 -----

18 **RE-EXAMINATION**

19 **BY MS. JACOBS:**

20 Q. All right. Chief, you asked each of the
21 persons that were involved with the investigation for
22 justification; is that correct?

23 A. That's correct.

24 Q. And of the five that are here today, you
25 got written responses from them, didn't you?

1 A. That's correct.

2 Q. And did any those responses attempt in any
3 way to explain the -- the vast numbers of time spent in
4 dispatch?

5 A. I don't believe so, ma'am.

6 Q. In fact, pretty much the same language was
7 used by all of them except Officer Primm, correct?

8 A. That's correct.

9 Q. It appeared they had worked together on
10 formulating their response, correct?

11 MR. MORGAN: Objection; it's just
12 speculation.

13 Q. Well --

14 MR. MORGAN: It appeared that --

15 Q. -- does the language look like they worked
16 together on their responses?

17 MR. MORGAN: Same objection. Same
18 basis.

19 MR. JUETT: Go ahead.

20 MS. JACOBS: Are you sustaining?

21 MR. JUETT: Yes.

22 MS. JACOBS: Okay. That's fine.

23 Q. With Officer Puckett -- with Lieutenant
24 Puckett, with respect to the first question you asked
25 him, which was, please give a justification for time

1 spent in dispatch for the dates listed and marked as
2 justified, which would be the lists of October, November
3 and December, correct?

4 A. Yes, ma'am.

5 Q. Okay. And what was his response?

6 A. Due to the remoteness in times and dates
7 listed, I am unable to provide specific details that
8 have been listed. At all times I was available for
9 calls for service.

10 Please note the dates and times listed
11 predate the email that was issued by Assistant Chief
12 Best on 12/8/2015. After this date I complied with the
13 email.

14 Q. Did you ask that same question of
15 Mr. Humphries --

16 A. I did --

17 Q. -- question number one?

18 A. -- yes, ma'am.

19 Q. And what was his response?

20 A. Due to the remoteness in times and dates
21 listed, I am unable to provide specific details that
22 have been listed. At all times I was available for
23 calls for service.

24 Please note that all dates and times listed
25 predate the email that was issued by Assistant Chief

1 Best on 12/8/2015. After this date I complied with the
2 email.

3 Q. What was Officer Anderson's response to the
4 same question?

5 A. Due to the remoteness of the times and
6 dates listed, I am unable to provide specific details
7 that have been listed. At all times I was available for
8 calls for service.

9 Please note that all the dates and times
10 listed predate the email that was issued by Assistant
11 Chief Best on 12/8/2015. Attached -- after this date I
12 complied with the email.

13 Q. And Officer Bholat's response to the same
14 question?

15 A. Due to the remoteness of times and the
16 dates listed, I can't recall specifics; however, I was
17 on duty and subject to calls at all times listed and
18 available.

19 All these dates listed but the last three
20 were prior to the memo issued by Assistant Chief Best.
21 The last three were holiday related. I was also subject
22 to calls and available at those times as well.

23 Q. Is a patrol officer's job simply to be
24 available for call?

25 A. No, ma'am.

1 Q. What is the purpose of patrol?

2 A. The purpose of patrol is to deter crime --
3 deter crime, to detect crimes in progress and to be out
4 in the neighborhoods and in the business zones and
5 making sure that crimes are not occurring.

6 Q. You were asked whether when you spoke with
7 Attorney Jerry Wright you said you wanted them to
8 resign; is that right?

9 A. That's correct.

10 Q. And you did, in fact, want them to resign,
11 correct?

12 A. That's correct.

13 Q. And it would have saved this hearing if
14 they had done so, correct?

15 A. That's correct.

16 Q. That's always been an option for them,
17 right?

18 A. Yes, ma'am.

19 Q. And it's still an option even now?

20 A. Yes, ma'am.

21 Q. Did Officer Bholat at any time in either
22 his written response to your questions or anytime
23 thereafter, including up until 3:00 this afternoon, let
24 you know by any means that November the 5th he was at
25 the hospital with another officer?

1 A. No, ma'am.

2 Q. Okay. In any of the responses that you
3 received -- the written responses that you received --
4 from any of these five officers did they express any
5 remorse or apologize for having spent exorbitant amounts
6 of time in dispatch and not on patrol?

7 A. No, ma'am.

8 Q. You were asked about the fact that these
9 officers have been suspended without pay and, you know,
10 doesn't that -- isn't that a big deal with respect to
11 not getting a paycheck.

12 You agree that is a big deal, right?

13 A. Yes, ma'am, it is.

14 Q. Do you consider it a big deal when somebody
15 gets a paycheck for not doing their work?

16 A. Yes.

17 Q. Especially when it's taxpayer's money?

18 A. Yes, ma'am.

19 Q. Now, you didn't come to your decision to
20 recommend termination for these folks based on seeing
21 the dog in dispatch, did you?

22 A. No, ma'am.

23 MR. MORGAN: I'm sorry to -- I'm fine
24 with some leading to get to the point, but this is -- I
25 object to the leading.

1 MR. JUETT: Understood.

2 Q. Did you base your decision to ask for the
3 termination of these officers because there was a dog in
4 dispatch on December the 5th?

5 A. No, ma'am.

6 Q. And what was your decision based on?

7 A. My decision was based on my entire
8 investigation of this matter and the lack of
9 justification provided by the officers.

10 Q. Are supervisors or lieutenants on night
11 shift also supposed to be patrolling or are they
12 supposed to be sitting in the office and doing reports?

13 A. They should be out patrolling and also
14 supervising their officers that are out in the field.

15 Q. Was -- and is that in their job
16 descriptions?

17 A. Yes, ma'am.

18 Q. Was Puckett's move to communications in
19 December a promotion or just a lateral move?

20 A. It was just a lateral movement.

21 Q. And in the responses that then-Lieutenant
22 Puckett and then-Lieutenant Humphries gave to your
23 requests for justifications, did they ever state in
24 those that they were filing reports during that period
25 of time?

1 A. I do not recall that being one of the
2 justifications, ma'am.

3 Q. And Officer Bholat doesn't file reports,
4 does he?

5 A. He files report. He does not review
6 reports.

7 Q. He doesn't review reports?

8 A. Yes, ma'am.

9 Q. Same with Officer Anderson and Officer
10 Primm, they file reports but don't review those as an
11 administrative process?

12 A. That's correct, ma'am.

13 Q. Who did you count on as your night shift
14 leaders?

15 A. My -- my supervisors.

16 Q. Who would be?

17 A. Lieutenant Puckett and Lieutenant Humphries
18 at the time.

19 Q. On Monday you were asked kind of generally
20 about your computations of the percentages of time --

21 A. Yes, ma'am.

22 Q. -- for each officer, and I think there was
23 some confusion about whether you had converted those
24 times to minutes or percentages.

25 Do you remember that conversation?

1 A. Yes, ma'am.

2 Q. And could you explain to the Commission how
3 you came up with those -- the total number of hours?

4 A. The only reason I had a decimal number on
5 my hours and minutes at the end, I took each line and it
6 was easier for me to convert it to minutes, get a total
7 number of minutes and divide it by 60. That gave me the
8 hours at a point time instead of the actual hours and
9 minutes.

10 Q. Okay. So for instance, Humphries, on
11 October the 2nd, you noted to be in dispatch for two
12 hours and thirty-eight minutes.

13 How would you have counted that in your
14 total?

15 A. That would have been 158 minutes.

16 Q. Okay. And so you added those up and then
17 divided by 60 to get the percentage?

18 A. Yes, ma'am.

19 Q. Okay. And have you spot checked some of
20 those numbers --

21 A. I --

22 Q. -- over the last day?

23 A. I have.

24 Q. And are they correct --

25 A. The ones --

1 Q. -- essentially?

2 A. -- I spot checked, yes, ma'am, they were
3 correct.

4 Q. Okay. Now, you've been asked about the
5 lieutenants reviewing reports from the officers on the
6 street.

7 On the videos that you saw with them
8 sitting in dispatch did you see them reviewing reports
9 and doing work on behalf of the City?

10 A. I did not, ma'am.

11 Q. Okay. And particularly October the 24th,
12 if you can pull that up, please, on the video.

13 A. What time?

14 Q. 22:42.

15 A. Okay.

16 Q. Have you got October the 24th?

17 A. No, I don't.

18 Q. Is that the date I said?

19 A. You did. I pulled up the wrong date.

20 Okay.

21 Q. Okay. Start playing that, and then who are
22 those people you see?

23 A. That would have been then-Lieutenant
24 Humphries, and Officer Breslin came in and just walked
25 out.

1 Q. Okay. Is that Lieutenant Humphries there?

2 A. Yes, ma'am.

3 Q. And without watching the entire video --

4 although we can if anybody wants to -- how long is

5 Lieutenant Puckett there in that --

6 A. That's Lieutenant Humphries.

7 Q. I'm sorry; Lieutenant Humphries.

8 A. He was there from 22:42, which is 10:42,

9 until 0140 -- 1:40 in the morning.

10 Q. And upon watching this video, did you see

11 any point during that time while he's sitting in

12 dispatch that he was reviewing any reports?

13 A. No, ma'am, I did not.

14 (Plaintiff's Exhibit No. 59 was marked

15 for identification.)

16 Q. What I've handed you is the radio dispatch

17 log for the entire night -- for that entire shift.

18 Okay?

19 And did we review that earlier and you're

20 confident that's what that is?

21 A. Yes, ma'am.

22 Q. Okay. If you will look through that, the

23 pink line starts the shift on the first page and then

24 ends the shift later throughout there. Okay?

25 A. Yes, ma'am.

1 Q. If you could, tell the Commission how many
2 reports would have been generated for Lieutenant
3 Humphries to review during that entire shift.

4 A. It appears possibly two, ma'am.

5 Q. Okay. And if you will look towards the end
6 of that packet, does that appear to be the two reports
7 that were generated from that night?

8 A. It would have been the DUI, and it appears
9 there would be a theft report. Yes, ma'am, that --
10 that's the one.

11 Q. Okay. And this is also a night, is it --
12 well, let me rephrase that question.

13 Was Lieutenant Humphries on the radio that
14 night other than to come on and off?

15 A. No, ma'am.

16 Q. How long was Officer Bholat in dispatch
17 that night?

18 A. From just after midnight -- 00:09 -- till
19 02:14.

20 Q. And how long was Lieutenant Puckett in
21 dispatch that night?

22 A. 00:56 till 02:14.

23 Q. And if Lieutenant Puckett is on duty at the
24 same time as Lieutenant Humphries, would he be
25 responsible for his own report review?

1 A. Yes, ma'am.

2 Q. And what time did Lieutenant Humphries
3 leave dispatch that night?

4 A. 01:40.

5 Q. Is there any evidence that he did any work
6 on behalf of the City after that time?

7 A. No, ma'am.

8 MR. MORGAN: Objection to the
9 speculation, as well as the fact this is beyond the
10 scope of the cross.

11 MS. JACOBS: The -- the cross was
12 whether they were preparing reports and reviewing
13 reports, so --

14 MR. JUETT: We'll allow it.

15 Q. You were asked on Monday if you felt like
16 the City was being served well by the termination of
17 these officers. Do you remember that?

18 A. I do, ma'am.

19 Q. Do you believe the City was being served
20 well on night shifts October through December?

21 A. No, ma'am, I do not.

22 Q. Do you believe the City would be well
23 served by telling these guys and telling these folks out
24 here, it's okay to neglect your responsibilities?

25 A. No, ma'am.

1 MS. JACOBS: That's all the questions
2 I have.

3 MR. MORGAN: No -- no recross.

4 MAYOR THORNTON: Now you may call your
5 next witness.

6 MS. JACOBS: If the officers intend to
7 testify on direct through their counsel first, I will
8 close. If they don't intend to testify, I'm going to
9 call them individually, so --

10 MR. MORGAN: They intend to testify.

11 MS. JACOBS: That's all.

12 MR. JUETT: Okay.

13 MR. MORGAN: I've got --

14 MS. JACOBS: Let me -- before we move
15 on, we need to introduce the video into the record and
16 then all of the exhibits from Monday, as well as the one
17 today -- I don't -- I think we neglected to do that
18 individually as we went -- noting the objections that
19 were made along the way.

20 MR. JUETT: So they've all been
21 numbered and they're in order?

22 COURT REPORTER: Yes.

23 MR. BEAUMAN: And we'll figure out how
24 to do the hard drive later.

25 MAYOR THORNTON: Mr. Morgan, you may

1 call your first witness.

2 MR. MORGAN: Okay. Call Wayne
3 Wallace. May I run down and grab him real quick,
4 please?

5 (Discussion off the record.)

6 **WAYNE WALLACE**

7 having been first duly placed under oath, was examined
8 and testified as follows:

9 **EXAMINATION**

10 **BY MR. MORGAN:**

11 Q. Sir, if you will speak into the microphone
12 there and please introduce yourself to the Commission
13 members and the Mayor.

14 A. Good evening. My name is Wayne Wallace.
15 I'm a forensic criminologist. I'm a retired police
16 officer, professor of criminal justice and psychology,
17 and I work as a consultant in areas of police conduct.

18 MAYOR THORNTON: We can't -- they're
19 also -- they can't hear you in the back either. If you
20 don't mind to repeat that. Is that microphone off?

21 THE WITNESS: I don't know.

22 (Discussion off the record.)

23 THE WITNESS: I'll try a little
24 harder. My tie is too tight.

25 A. I said, good evening. My name is Wayne

1 Wallace. I'm a forensic criminologist. I am a retired
2 police officer. I'm a professor of criminal justice and
3 psychology, and I do consulting in the area of police
4 conduct for about the last eight years or so now.

5 Q. Sir, you said that you are a retired police
6 officer.

7 Please tell the Commission members where
8 you have worked as a peace officer.

9 A. Yes. I received my initial law enforcement
10 training as a military police officer. I was a special
11 agent with the United States Army Criminal Investigation
12 Division, and I worked later at the Kenton County Police
13 Department, from which I retired.

14 I was a detective for a good portion of
15 that time. I spent a couple of years as a patrol
16 officer, but for the most part, I was a detective until
17 I retired.

18 Q. When did you work at Kenton County Police?

19 A. I worked at Kenton County Police beginning
20 in 1992 and -- through 2005. I retired due to an
21 injury. I had my neck broken, and after a period of
22 recuperation I worked back at the prosecutor's office as
23 a detective there for about two years until I retired to
24 go back to school and pursue consulting.

25 Q. The prosecutor's office, was that the

1 Kenton County Commonwealth?

2 MS. JACOBS: Let -- let me object to
3 this gentleman's testimony. I'm sure he's well
4 qualified, but if he's going to offer opinions as to
5 whether the conduct violated policy or not, that's
6 very -- very much invading your province as to the
7 fact-finding thing.

8 Yeah, this is really not the time and
9 place for expert testimony in this type of hearing.

10 MR. JUETT: I guess I'm scratching my
11 head too about where -- what -- what is the relevance of
12 this?

13 MR. MORGAN: He's going -- well, just
14 as the chief provided his opinion testimony, as -- and
15 over my objection about invading the province of the
16 Commission, I think Detective -- or Dr. Wallace is here
17 to provide his insights based upon his training,
18 education and experience as to whether these are --
19 whether termination is appropriate.

20 And I also reference 15.520, the peace
21 officer's Bill of Rights, when it talks in Subsection
22 1(f), as in Frank, talks about law enforcement
23 procedures means only those policies, rules and customs
24 that are specific to the conduct of officers in the
25 exercise of law enforcement powers and functions, and it

1 goes on.

2 So Detective -- or Dr. Wallace here has --
3 has experience as a peace officer. He's still
4 involved -- on a daily basis involved in peace officer
5 work and review of what peace officers do.

6 I think he -- the peace officers here
7 are requesting the Commission to hear him and provide
8 his insight and -- and draw whatever weight they want to
9 from that in regards to law enforcement procedures.

10 MR. JUETT: I think the -- the
11 Commission is interested in at least hearing where he's
12 going to go with it --

13 MR. MORGAN: All right.

14 MR. JUETT: -- so proceed.

15 MR. MORGAN: All right. Thank you.

16 Q. I keep calling you Doctor or Detective.
17 Are -- and you -- please explain -- do you
18 have a Ph.D.?

19 A. I do. I have a Ph.D. in forensic
20 psychology.

21 Q. When did you get that?

22 A. I finished my Ph.D. over a year ago.

23 Q. Okay. And are you teaching now?

24 A. I -- I do. I teach at the University of
25 Cincinnati, at Waldon University and Indiana Wesleyan

1 University.

2 Q. What do you teach?

3 A. I teach criminal justice and psychology
4 courses.

5 Q. Okay. Now, Detective -- Dr. Wallace, let
6 me get to the point here in regards to what I was saying
7 about law enforcement procedures.

8 Do you have training, education and
9 experience in what is involved in the operations of a --
10 of a police department?

11 A. Yes, I do.

12 Q. Which ones?

13 A. City, county police departments, is that
14 what you're asking?

15 Q. As the -- right. At the Kenton County
16 Police Department were there other smaller police
17 agencies besides the Kenton County Police Department?

18 A. Yes. There were approximately 14 agencies
19 with law enforcement authority in that county. We also
20 have kind of contiguous -- Boone and Campbell Counties
21 are there as well, so kind of have an interagency
22 agreement.

23 Q. Okay. So within Kenton County there are --
24 well, you've got Kenton County plus 14 other city
25 agencies plus the sheriff?

1 A. Correct.

2 Q. All right. During your time working the --
3 how many years was it at Kenton County?

4 A. Thirteen, I believe.

5 Q. -- 13 years at Kenton County, would you
6 have interaction with the smaller agencies there in
7 Kenton County?

8 A. I did. For the last six years of my career
9 I was on loan to the cities working specific cases, and
10 I was contracted -- not contracted, but doled out to
11 investigate internal investigations and other special or
12 sensitive investigations, and then I spent a number of
13 years working capital murder cases up there.

14 Q. During your education and your experience
15 there in -- in Kenton County, as well as with the Army
16 CID, how many times do you think you have been in a
17 dispatch center for a police agency?

18 A. Daily.

19 Q. Okay. In Kenton County, with the 15 or so
20 agencies that are up there, do each of them have their
21 own dispatch or would Kenton County have a dispatch for
22 all the separate agencies?

23 A. There are three dispatch centers in Kenton
24 County -- Erlanger, Covington and Kenton County -- so
25 there are numerous, and they had a tendency to migrate

1 according to who was in charge and -- a bit political
2 there.

3 Q. Tell the members of the Commission, sir,
4 what your experience was at -- involving dispatch --
5 dispatch centers.

6 Is that a -- is that a place where officers
7 would frequently -- frequently congregate?

8 MS. JACOBS: Objection. Whether they
9 do or do not in other counties is completely irrelevant.

10 MR. JUETT: True.

11 MR. MORGAN: Well, I'm --

12 MR. JUETT: Sustained.

13 Q. Okay. Based upon law enforcement
14 procedures -- meaning customs -- is -- is it a common
15 occurrence for peace officers to go to dispatch centers?

16 A. Absolutely it is.

17 Q. Why?

18 A. Well, dispatch is the hub of operations,
19 for one. Every officer begins his day there. If you
20 are a police officer, you should interact with dispatch
21 all the time.

22 Q. Why?

23 A. Well, I can give you one good reason. We
24 carry panic buttons on our radios in case something
25 happens.

1 If you're -- if you ask -- want a
2 dispatcher to start people your direction, you don't
3 want to be a number on their screen; you want to be a
4 person.

5 Not only that, but it's -- you know, at
6 least in Kenton County -- it's interagency. It's the
7 same building, same employees, get the same paycheck
8 from the same place.

9 MS. JACOBS: I'm going to object again
10 to what happens in Kenton County. It has no relevance
11 to what happens in the City of Paris.

12 THE WITNESS: I can always --

13 MS. JACOBS: Policies and customs of
14 Kenton County have no relevance to the policies --

15 MR. MORGAN: He was testifying --

16 MR. JUETT: Can we keep it general?

17 MR. MORGAN: He's testifying as to
18 general, and I realize --

19 Q. Dr. Wallace, please limit yourself to
20 general policies and law enforcement procedures rather
21 than Kenton County.

22 And if I may interrupt, at the -- at
23 the Kenton County dispatch would it be common for
24 folks -- for peace officers from the State Police to
25 come into dispatch there?

1 A. It would.

2 Q. Okay. Would it surprise you that we've
3 seen videos here where State Police officers have come
4 into the City of Paris dispatch center?

5 A. Not at all. There's one out in the
6 hallway.

7 Q. All right. Detective Wallace, tell us,
8 please, your experience and customs regarding dispatch
9 centers, and you were explaining why it's important for
10 peace officers to have good working relationships with
11 the dispatch center.

12 MS. JACOBS: Objection. It's
13 irrelevant. They are not charged with not having good
14 relations with dispatch. They're charged with hanging
15 out there for hours and hours and hours at a time.

16 His experience is completely
17 irrelevant to this proceeding.

18 MR. MORGAN: He's here to testify --
19 as you allowed him to a minute ago -- about law
20 enforcement procedures and customs.

21 MR. JUETT: I -- I agree. Your
22 objection is noted, but the Commissioners would like to
23 hear it.

24 MS. JACOBS: Okay.

25 Q. Do you have any -- do you understand the

1 question, sir?

2 A. I do, sir, but I'd appreciate it if you'd
3 repeat it for me.

4 Q. I'll do my best. Explain, please, to the
5 Commission members why it's important, in your training,
6 education and experience in law enforcement procedures
7 and customs, why a peace officer needs to have good
8 relationships with the dispatch and/or why they need to
9 be present in dispatch.

10 A. Beyond the safety issue that I just talked
11 to you about, in addition to that, officers are
12 routinely doing things such as running criminal
13 histories and -- and those kinds of things, so they're
14 going to have frequent interaction with dispatch.

15 But also, officers -- dispatch puts
16 out the minimum amount of words possible on the radio,
17 so there is almost a read between the lines kind of
18 language that occurs in -- in -- in law enforcement,
19 particularly when they're speaking in 10 code or that
20 kind of thing.

21 So you have to know how people communicate,
22 and the best way to do that is face-to-face,
23 particularly if most communication is nonverbal to begin
24 with.

25 So to get to know your dispatchers and to

1 maintain those relationships, it's extremely important.
2 It's just as important as to know your fellow officers,
3 because you work with them all day every day and, you
4 know, you rely on them and they rely on you,
5 particularly for the quick exchange of information.

6 When a -- when a critical incident occurs
7 there's no time to repeat yourself, so getting to know
8 these people and developing those relationships are
9 extremely important.

10 Q. Well, you know, the issue here, though,
11 Detective, is that these guys were hanging out too long
12 in dispatch.

13 Is that something that you are aware of is
14 a -- is a practice or custom that occurs in -- in police
15 departments?

16 A. No, not as a custom. I -- I can tell you
17 that I've had my own backside chewed before for hanging
18 out in dispatch holidays, weekends, third shift. It's
19 the nature of the job.

20 So I can't speak to hanging out too long,
21 but I can tell you that if you're an officer for any
22 length of time you've been chewed out for being in
23 dispatch, and it will continue forever.

24 Q. What do you mean by that, it will continue
25 forever?

1 A. It's the nature of the job. You can't
2 separate the two.

3 Q. Is this something that's appropriate for
4 termination of employment?

5 MS. JACOBS: Objection; invading the
6 province of the Commission.

7 MR. JUETT: I would agree.

8 MR. MORGAN: I think we heard from the
9 chief. These officers are entitled to have somebody to
10 speak on their behalf as to why it's not.

11 MS. JACOBS: It -- it's -- because
12 it's his recommendation and his employment and his job
13 to do that.

14 MR. JUETT: Exactly.

15 MR. MORGAN: I'm sorry?

16 MR. JUETT: I'll sustain the
17 objection.

18 Q. Detective Wallace, have you examined the
19 reports that were generated by the chief against these
20 officers?

21 A. I have, sir.

22 Q. And what, if anything, based upon your
23 training, education and experience in regards to law
24 enforcement procedures and customs stood out to you in
25 regards to those reports or charges filed by the chief

1 against these men?

2 A. What stood out to me the most was -- as I
3 finished it -- was that the issue that is before this
4 Council, the -- the issue that has arrived at this
5 Council is less a reflection on -- I guess it's these
6 officers -- I'm sorry; I have not met them all -- it is
7 less a reflection on them as it is a reflection on the
8 chief's inability to supervise. It's the --

9 MS. JACOBS: Objection. We've said
10 it's not -- we're not talking about the chief. We're
11 talking about their actions.

12 MR. MORGAN: And he's -- he's trying
13 to express his understanding -- he's expressing his
14 basis here, Mr. Juett.

15 MR. JUETT: I think he is. I think
16 you are. Go ahead.

17 A. It's just -- it's my opinion that if
18 this -- these actions are egregious enough to be
19 referred to -- as I've read -- as gross malfeasance,
20 then it doesn't stop at some point and say, well, I'm
21 going to stop at the lieutenant level and that's it,
22 nobody else is responsible. It doesn't happen like
23 that.

24 In law enforcement it's -- it's a triangle
25 that's upside down. The higher you get the more

1 responsibility that you have, and it doesn't stop just
2 because you want it to.

'3 You're responsible for the -- the people
4 beneath you -- or not beneath, but below your -- your
5 level of supervision, and so whatever you have to do,
6 whether it be come in on third shift in the middle of
7 the night to make sure that the people who you're
8 responsible for are doing their job, then you need to do
9 it.

10 If you look back and see for a long period
11 of time that something has been going on, then you
12 really ought to look at yourself first to see, why did I
13 not understand this, why did I not see it.

14 It's not -- this department, I understand,
15 has around 25 officers. It's relatively small. It's
16 about the average size of an office -- of a department
17 in the United States.

18 That's why it's so common is that you know
19 everybody and you know what everybody is doing -- or at
20 least you should -- and again, the higher you get in an
21 organization the more responsible you are for them.

22 So to stop and abruptly say, well, these --
23 these other supervisors are responsible, but then it
24 stops there, I'm not going to assume any responsibility
25 for ever checking in dispatch, for example, or making

1 sure the odometers on the vehicles read a certain amount
2 of miles per night.

3 I've -- I've had the occasion to
4 investigate that before where chiefs of police
5 maintained beginning and ending odometer readings to
6 ensure that the officers were out on patrol. You know,
7 that's just another way to effect that type of
8 supervision.

9 And it's a -- also, that kind of thing, if
10 you're an officer -- I was that officer who had to fill
11 out that, and it was -- the implication was, you better
12 get out on patrol and put those -- those miles in.

13 You can't just jack the back of your car up
14 and let it roll all night. You know, you have to get
15 out and be on the street. So if no mileage is being put
16 on the cars, no gas is being consumed, what's going on?

17 And so I find it hard to believe that the
18 chief or his designate wasn't following up on these
19 things to make sure that the job is getting done.

20 If he's not sure the job is getting done
21 three months ago, I'm not sure how one could conclude
22 that he could get the job done tomorrow --

23 MS. JACOBS: Objection.

24 A. -- with that level of supervision.

25 MS. JACOBS: That's beyond the scope.

1 MR. JUETT: I agree. You're going
2 after the chief now.

3 THE WITNESS: I don't mean to.

4 MR. JUETT: That's not --

5 THE WITNESS: I'm not --

6 Q. Well, all right.

7 THE WITNESS: I apologize then.

8 Q. Dr. Wallace, let's talk about an email that
9 went out to the police force -- two emails going out to
10 the police force on December 8 saying, don't hang out in
11 dispatch anymore.

12 A. Okay.

13 Q. What would you -- as your training,
14 education, experience in law enforcement procedures and
15 customs, what would you expect to see as a reaction --
16 what would you hope to see as a supervisor as a reaction
17 from such emails?

18 A. I think you'd see an immediate compliance
19 with the order, and I think that -- it usually happens
20 in response to something, so as time goes on you have a
21 tendency to trickle back in.

22 It's just -- it's the nature of the job.
23 You're never going to separate dispatch and police, and
24 there's -- well, I guess I shouldn't say this, but
25 that's --

1 Q. What if you --

2 A. -- that's what I would expect to see.

3 Q. I'm sorry to interrupt, but what if you do
4 see a curtailment, a reduction of time in dispatch after
5 these emails, what does that suggest to you in your
6 understanding of law enforcement customs and practices?

7 A. That indeed the memo or -- that you're
8 talking about -- the email -- in fact, worked. There
9 was a change of behavior, and you would have
10 reconciliation to the problem.

11 Q. Do you know whether that occurred here?

12 A. It's my understanding that it did.

13 Q. You mentioned something a minute ago about
14 dispatch and holidays -- working on holidays, that you
15 yourself had been chewed out for being in dispatch on
16 holidays.

17 What is -- what significance is a holiday
18 in dispatch?

19 A. Well, as you know, law enforcement is
20 twenty-four hours a day and seven days a week.
21 Historically on holidays -- Christmas, Thanksgiving,
22 those kinds of things -- on -- on third shift or early
23 in day shift it's very quiet, and it's just at those
24 times when there's not a lot of activity you wind up
25 congregating somewhere, whether it be a restaurant or

1 dispatch.

2 That's why we carry radios. You know,
3 you're dispatched to a call and so you respond to
4 service.

5 It's my understanding that there were no
6 failures to respond to service, and a function of patrol
7 is to be available, a function of supervisors is to be
8 available for specific incidents -- critical
9 incidents -- but to be dispatched when you're called on
10 for a call for service.

11 So I also don't know if there was any crime
12 that had occurred in the sectors that these officers
13 were patrolling in that was undetected or undeterred as
14 a result of them not being out actively on patrol. I
15 haven't heard any of that. There may be. I just
16 haven't heard it.

17 Q. Is there -- based on your training,
18 education and experience, does the mere fact that an
19 officer is out in his squad car mean that that officer
20 is going to not only be safe but that that officer is
21 automatically going to deter or suppress criminal
22 activity?

23 A. If he's in his squad car?

24 Q. Yeah, as opposed to being in dispatch.

25 A. You mean like actively patrolling or

1 just --

2 Q. Whether sitting on a side street or driving
3 around.

4 A. I guess, yeah, I couldn't necessarily say.
5 Situationally, it depends. Third shift is a whole lot
6 different than day shift.

7 Having your car parked out in a school
8 zone, for example, is a huge deterrent to speeders.
9 Being parked out on third shift is a huge safety risk
10 for officers, so it's entirely different depending on
11 which shift you work.

12 Q. What do you mean it's a safety risk to
13 officers to be parked in a parking lot on third shift?

14 A. Because it -- you -- you are basically a
15 sitting duck. You know, the -- last week there were
16 officers who were killed sitting in their patrol car.
17 It's just not a good habit to be in, to stay stationary.

18 Originally when mobile data terminals
19 became popular a few years back the idea was officers
20 would be out and could do their work out in the -- in
21 the community.

22 And after a few officers were killed while
23 they were entering data it changed, and if you're
24 stationary you've got keep your head on a swivel. You
25 can't just sit there. It's dangerous.

1 MR. MORGAN: That's all I have. Thank
2 you, sir.

3 MAYOR THORNTON: Do you want to cross
4 now or do you want to go on and eat? We'll stop at
5 6:00.

6 MS. JACOBS: Your call.

7 MR. BEAUMAN: It's up to you all.

8 MAYOR THORNTON: What do you want to
9 do?

10 MR. JUETT: Are you all okay with
11 stopping for dinner?

12 MR. MORGAN: Well, it's certainly the
13 Commission's call, but I'd prefer, if we can, to get
14 done with as much as we can as quickly as possible.

15 MR. JUETT: How long do you think
16 you'll be?

17 MS. JACOBS: Probably 30 minutes,
18 maybe more.

19 COMMISSIONER GALBRAITH: Your -- your
20 cross -- your cross of the doctor --

21 MS. JACOBS: Yes.

22 COMMISSIONER GALBRAITH: -- of
23 Dr. Wallace is 30 minutes?

24 MS. JACOBS: I suspect. It kind of
25 depends on what he answers.

1 MR. JUETT: Make a decision, guys.

2 COMMISSIONER GALBRAITH: I'd rather,
3 if we're going to eat, let's eat now; otherwise -- this
4 is a great -- this is a great place to stop.

5 MAYOR THORNTON: We'll take a recess.

6 (Recess taken.)

7 MAYOR THORNTON: Are both Counselors
8 ready?

9 MS. JACOBS: Yes.

10 MR. MORGAN: Yes.

11 MAYOR THORNTON: Ms. Jacobs, I think
12 you were on deck.

13 MS. JACOBS: Are we all already?

14 MAYOR THORNTON: We're back in
15 session. Thank you.

16 -----

17 **EXAMINATION**

18 **BY MS. JACOBS:**

19 Q. Detective Wallace, were you present at
20 Monday's hearing?

21 A. I was here. I was --

22 Q. You were down in the other room?

23 A. -- like I was today, yes.

24 Q. But tonight you were out in the hallway,
25 right?

1 A. I was down there, yeah.

2 Q. And you were hearing what was being said

3 out there, right?

4 A. Not everything, no.

5 Q. Not everything, but some?

6 A. I --

7 Q. You were sitting right by the speaker,

8 right?

9 A. On the other side of it, yeah.

10 Q. Okay. You heard what was being said,

11 didn't you?

12 A. I wasn't paying attention.

13 Q. You weren't paying attention?

14 A. No, ma'am.

15 Q. Okay. How much are you being paid to be

16 here?

17 A. \$1,500.

18 Q. Total?

19 A. Total.

20 Q. Okay. Not by the hour?

21 A. No, not by the hour.

22 Q. Okay. When did you get hired on this case?

23 A. Last Friday.

24 Q. So how much did you review before today?

25 A. How much -- how much --

1 Q. What did you review?

2 A. Oh, the individual -- the report by the

3 chief and the material that was given to the officers

4 with regard to the charges against them.

5 Q. Is that all?

6 A. I think so, yes.

7 Q. Okay. Did you review any of the video?

8 A. No, I didn't get any of the video.

9 Q. Did you review any of the policies of the

10 Department of Police for Paris, Kentucky?

11 A. Yes, ma'am, the disciplinary policy.

12 Q. Uh-huh. Did you review 15.520?

13 A. KRS or the --

14 Q. Yes.

15 A. No.

16 Q. Can I see your notes that you took out in

17 the hall tonight?

18 A. I didn't take any notes in the hall.

19 Q. Yes, I believe you did. People -- several

20 people have said you were taking notes out in the

21 hallway.

22 A. Taking notes?

23 Q. Yes, sir.

24 A. I have some paperwork with me, my copy of

25 the chief's report, but I'm not taking notes. You're

1 welcome to look at my -- those had been prepared before
2 tonight.

3 Q. So it's your testimony you weren't sitting
4 out there listening and taking notes?

5 A. No. No.

6 Q. Why didn't you go down to the witness room
7 tonight?

8 A. I thought I was supposed to be here at 3:00
9 to be called as the first witness.

10 Q. But you weren't, right?

11 A. Well, obviously not.

12 Q. You've testified in court before, right?

13 A. I have.

14 Q. Lots of hearings and things, right?

15 A. Yes.

16 Q. You know that you're supposed to be down in
17 the witness room, right?

18 A. No.

19 MR. MORGAN: Objection.

20 Q. You don't know you're supposed to be in the
21 witness room?

22 A. I --

23 MR. MORGAN: I'm sorry; there's an
24 objection on the floor here as to this -- I mean, we're
25 talking about -- this is not a hearing -- I mean, it's

1 not a trial.

2 I know -- I think what we're talking
3 about here is the Mayor did invoke something of the
4 separation of witnesses, and rather than engage in a --
5 in an argument with the witness, I think it's probably
6 more appropriate to ask him, with the Commissioners,
7 what did he hear, if anything, while he was sitting
8 outside instead impugning some bad intent.

9 MS. JACOBS: We have reason to believe
10 that he was sitting close to a speaker and taking notes.
11 We also have him admitting that he did not go to the
12 witness room when he knows the separation of witness
13 rule was in effect --

14 MR. MORGAN: I don't think he --

15 MS. JACOBS: -- so I'm entitled to go
16 into --

17 MR. MORGAN: -- agreed to that at all.

18 MS. JACOBS: -- what he heard, what he
19 did while he's sitting out there listening to the
20 testimony.

21 MR. JUETT: I think you are entitled
22 to --

23 COURT REPORTER: I'm sorry; could you
24 say that again?

25 MR. JUETT: I think you are entitled

1 to go into that, yes.

2 Q. Did you watch the video that was played a
3 little while ago?

4 A. I don't know what you're referring to.

5 Q. Did you watch the video that was played a
6 little while ago?

7 A. What -- I'm not -- I'm sorry; I don't know
8 what you're talking about.

9 Q. You know a big part of this case is video
10 evidence, correct?

11 A. Okay.

12 Q. Okay. And did you watch any of the video
13 that was played a while ago during this hearing?

14 A. In here?

15 Q. Yes.

16 A. No, ma'am.

17 Q. From the hallway?

18 A. No.

19 Q. So you've not seen any video at all in --

20 A. I have not seen any video.

21 Q. Okay.

22 A. What do you think I was doing, ma'am?

23 Q. I think you were listening to the testimony
24 and taking notes.

25 A. Well, you're incorrect, ma'am.

1 Q. Okay. Now, Monday afternoon, after the
2 hearing was concluded, did you come in this room with
3 the attorneys for the officers and the officers and have
4 a discussion?

5 A. When it was concluded I met some of the
6 officers and spoke with the attorney, yes.

7 Q. Okay. And what did you all talk about?

8 A. I --

9 MR. MORGAN: Objection.

10 MS. JACOBS: There's no way that's
11 privileged -- no way.

12 MR. MORGAN: Well --

13 MS. JACOBS: He was in there. It's
14 not privileged.

15 MR. MORGAN: I'm not so -- that's a --
16 that's one basis for the objection. What's the
17 relevance of this is another thing.

18 But this man has -- has testified that
19 he is -- he's here as a witness, and what he talks about
20 with counsel I think by any stretch of the imagination
21 is going to be considered attorney/client and/or work
22 product.

23 But you know what? If -- if you want
24 to let it in, go ahead, but we're objecting to it.

25 MS. JACOBS: Well, he --

1 MR. MORGAN: That -- that opens all
2 kinds of issues and liabilities, but go ahead if that's
3 what you want to do.

4 MR. JUETT: I think it's safer if you
5 don't.

6 MS. JACOBS: That -- that's fine.

7 Q. You teach police like policy, like basic
8 training-type things, how to conduct patrol, how to do
9 investigations; is that right?

10 A. I teach criminal justice courses.

11 Q. And what does that include?

12 A. The field of criminal justice.

13 Q. What does that include? What is the topics
14 of your --

15 A. It's pretty broad, ma'am.

16 Q. Okay. Tell me.

17 A. Okay. I can go down the list of things
18 I've taught before if you'd like.

19 Q. No. In your criminal justice classes --

20 A. Uh-huh.

21 Q. -- what do you teach?

22 A. I'm in the criminal justice department, so
23 I teach all the classes that their -- criminal
24 investigation. I'm teaching right now ethics,
25 procedures.

1 Q. What do you teach in your ethics class
2 about hanging out in dispatch for two-plus hours during
3 a shift?

4 A. I don't recall a chapter on that.

5 Q. Do you teach your officers to do that, that
6 that's okay and ethical and moral to do?

7 A. Is that a -- are you -- is that a question
8 or --

9 Q. Yes, it is.

10 A. -- a comment?

11 Q. No, that's a question. Do you teach your
12 officers that it's okay to hang out in dispatch for
13 two-plus hours at a time?

14 A. It's not part of an ethics class that I
15 teach, no.

16 Q. That's not an ethics issue to you?

17 A. Is that an ethics issue for me?

18 Q. Uh-huh.

19 A. There's a lot of context to these things.
20 I don't know.

21 Q. Okay.

22 A. I mean, what do you want me to say, that
23 it's --

24 Q. I want -- I want you to say whether you
25 teach your officers -- your people in class whether it's

1 okay to hang out in dispatch for two to three hours --

2 A. I see.

3 Q. -- while they're on duty.

4 MR. MORGAN: You know, Mr. Juett, this
5 is -- we're really -- I object to the argumentativeness
6 of this. She's asked, he's answered --

7 MS. JACOBS: Well, he didn't answer.
8 He's --

9 MR. MORGAN: -- and now we're on the
10 third time.

11 MS. JACOBS: -- never answered.

12 MR. JUETT: Well, I -- I don't think
13 he answered the question. I think he's still trying to
14 clarify what the question is.

15 So do you want to, Ms. Jacobs, just
16 try to state the question different?

17 Q. I want to -- the question is, sir, in your
18 ethics and morality class do you discuss with your
19 students whether it's okay or not okay -- i.e., ethical
20 or moral -- to hang out in dispatch for two-plus hours
21 while they're on patrol or on duty?

22 MR. MORGAN: And I'll change my
23 objection.

24 MS. JACOBS: That's a yes-or-no
25 question.

1 MR. MORGAN: Okay. To morals -- now
2 we're getting into morals.

3 MS. JACOBS: Well, he said he teaches
4 ethics and morals.

5 MR. MORGAN: Well, I don't remember
6 that, but --

7 MS. JACOBS: Well, he does.

8 MR. MORGAN: -- objection. Please,
9 let's --

10 MR. JUETT: Objection overruled.

11 MR. MORGAN: -- get some control.

12 MR. JUETT: Please go ahead and
13 answer.

14 THE WITNESS: Okay. Do I -- I'm
15 sorry; will you just, one more time --

16 MS. JACOBS: Would you read back the
17 question?

18 (Question read.)

19 A. I don't recall that specific
20 two-and-a-half-hours-in-dispatch subject being in there.

21 Q. Okay.

22 A. If you're asking me from a hypothetical
23 perspective if it's wrong or right, that's a
24 different --

25 Q. Let me ask you hypothetically.

1 A. -- question.

2 Q. Is it wrong or right to hang out in
3 dispatch for two-plus hours while you're on duty?

4 A. That's a good question. These things don't
5 happen in a vacuum, so I can't just give you an answer
6 yes or no. I can explain to you when two and a half
7 hours in dispatch may not be the best use of time and --

8 Q. Well, let's look at some video about that.

9 MR. MORGAN: I'm sorry; please let --
10 he was, I think, still talking. I realize emotions are
11 high, but let -- please let the witness finish,
12 Mr. Juett.

13 MR. JUETT: All right. Let him
14 finish.

15 A. I can surmise of an instance where it may
16 not be appropriate to spend two and a half hours in
17 dispatch. I can also tell you when it's entirely
18 appropriate to be in dispatch for two and a half or more
19 hours.

20 So it really depends on the specifics of
21 any specific incident, but the context in which they're
22 there, so I -- I just --

23 Q. Well, let me ask you --

24 A. -- don't know.

25 Q. -- this then: When would be an appropriate

1 time for someone to be in dispatch for two or three or
2 four hours while they're on duty?

3 A. I've seen supervisors in there during times
4 of heavy volume when they were there to be -- to respond
5 where appropriate, if a supervisor is requested to a
6 scene, if there's an accident with injuries, if there's
7 a critical incident where they should go.

8 I've seen them spend an extended period of
9 time there doing their -- their paperwork so they could
10 multitask and be there available for call.

11 Then I've seen people on third shift who've
12 leaned up against the wall and fallen asleep.

13 Q. And is that okay --

14 A. Absolutely not.

15 Q. -- when they do that?

16 A. Absolutely not --

17 Q. Okay. Did you --

18 A. -- not in my view.

19 Q. -- watch any of the videos that are --

20 A. I did not.

21 Q. Okay. Do you know whether these guys were
22 leaned up against the wall watching TV or --

23 A. Watching TV?

24 Q. -- or with their feet up, not doing any
25 reports or --

1 A. I'm afraid I don't -- I can't tell you any
2 part of it.

3 MS. JACOBS: Pull up the 24th, please.

4 MR. BEAUMAN: You can see it on the
5 screen there.

6 Q. Do you know who this is?

7 A. What am I looking at, ma'am?

8 Q. You're looking at an officer in dispatch.

9 A. Oh, at the top of the screen there, okay.
10 The one that -- okay, I see. And what's your question
11 to me?

12 Q. I want -- I want you to watch that and tell
13 me whether you think he's --

14 MR. MORGAN: What?

15 Q. -- performing duties, acting appropriately,
16 acting morally, ethically -- acting ethically.

17 MR. MORGAN: Morally?

18 A. I don't know what he's doing. I --

19 Q. Does he look like he's working for the
20 police department?

21 A. Well, he's got his uniform on. I -- I
22 don't know.

23 Q. He does.

24 A. I mean, maybe he is. I just saw --

25 Q. Yes, he does.

1 A. -- I just saw him get up and walk over
2 there. I don't know what he's doing.

3 Q. He's got his feet up too, doesn't he?

4 A. He sure does. He's got his feet up.

5 Q. Yeah.

6 A. Is that --

7 Q. Do you know how long he sat there that
8 night?

9 A. I do not.

10 Q. Did you review the reports or the videos to
11 see?

12 A. I have, but I don't know which -- could --
13 would -- would you tell me how long he stood there -- or
14 sat there?

15 Q. You seem to be very stuttering now, but
16 when you were asking -- answering question before you
17 were very firm and -- and --

18 MR. MORGAN: Really? Is this a
19 question or --

20 MS. JACOBS: Yes --

21 MR. MORGAN: -- a comment?

22 MS. JACOBS: -- it is.

23 MR. MORGAN: Settle -- may -- may we
24 take a break here, please?

25 MS. JACOBS: No, we're going to keep

1 going.

2 MR. MORGAN: No, I'm sorry; this is
3 not -- may we just take a brief break, because I -- I
4 think emotions are really high right now --

5 Q. Do you think it's appropriate --

6 MR. MORGAN: -- and I'm --

7 Q. -- sir, for --

8 MR. MORGAN: I'm sorry?

9 MAYOR THORNTON: I would like to
10 continue this on or we're going to be in here all night.

11 MR. MORGAN: I agree.

12 MAYOR THORNTON: And I can tell you
13 from me personally, to listen to what this man had to
14 say and -- and how he testified and what he's doing now,
15 I want to know this. I want to hear what he has to say.

16 Q. We're still watching. He's still sitting
17 there, isn't he?

18 A. (No response.)

19 Q. Yeah, he's still sitting there, right?

20 A. He -- he's still sitting there.

21 Q. Okay. We'll keep watching while we --

22 A. Yes, ma'am.

23 Q. -- we answer questions.

24 So do you teach your officers or students
25 that it's okay to leave a cruiser out running for four

1 hours or seven hours while they're in headquarters?

2 A. I don't teach them that, no.

3 Q. Okay. Do you think that's okay to do?

4 A. I -- I -- probably --

5 Q. You don't know?

6 A. Probably not.

7 Q. You've come as an expert, right?

8 A. Yes.

9 Q. An expert on police policies and

10 procedures, right?

11 A. Yes.

12 Q. So it's not okay to do that, is it, in your

13 opinion?

14 A. Probably not.

15 Q. Okay.

16 A. I wouldn't agree with it.

17 Q. Is it okay for officers while they're on

18 duty to bring personal computers and do personal work in

19 dispatch?

20 A. I've seen it happen.

21 Q. Is that okay?

22 A. I've seen it when it's not okay, I've seen

23 it when it was. When it's students in school and if

24 there's more than one person covering the sector they

25 were allowed to sit at a desk as long as they were on

1 call to respond.

2 Q. But they were --

3 A. They could spend a few hours.

4 Q. -- allowed to?

5 A. Yes, ma'am.

6 Q. Is that with permission from the
7 supervisor --

8 A. With permission --

9 Q. -- they're allowed to?

10 A. -- from the supervisor, yes, ma'am.

11 Q. Okay.

12 A. Other times I've seen it happen when it was
13 entirely inappropriate.

14 Q. Okay. Did you watch Officer Bholat sit for
15 two-plus hours doing homework one night?

16 A. I did not.

17 Q. You -- you're going to testify about their
18 behavior, but you haven't watched the videos, right?

19 A. I have not watched the videos.

20 Q. Did you watch any video of Officer Puckett
21 putting the head of one of the dispatchers in his lap
22 and putting his hands on the back of her head?

23 MR. MORGAN: Objection. It's a
24 mischaracterization.

25 MS. JACOBS: Well, let's pull it up.

1 Let's watch it.

2 MR. JUETT: That's probably the best
3 thing to do.

4 COURT REPORTER: I'm sorry; can you
5 speak up? I can't hear you.

6 MR. JUETT: That's -- sorry -- that's
7 probably the best thing to do is bring it up.

8 MR. MORGAN: Are you going to let him
9 have his notes back?

10 MS. JACOBS: (Nods head.)

11 MR. MORGAN: Will you let him have his
12 notes back?

13 MS. JACOBS: I will let him have his
14 notes back, yes.

15 MR. MORGAN: And is there a finding
16 that he -- he didn't take any notes in listening to
17 witnesses testify?

18 MS. JACOBS: No, there's no such
19 finding.

20 Q. Okay. So what we've pulled up is --

21 MR. BEAUMAN: That screen has gone
22 off.

23 MS. JACOBS: What?

24 MR. BEAUMAN: The screen is off.

25 MS. JACOBS: That back screen has gone

1 off.

2 (Discussion off the record.)

3 Q. So if you'll turn around and watch the
4 video, please, sir.

5 A. (Witness complies.)

6 MS. JACOBS: Okay. You can stop it.

7 Q. Do you believe that to be appropriate
8 conduct for a lieutenant?

9 A. Probably not.

10 Q. Do you think it's okay for a -- or
11 appropriate for a lieutenant to kiss a dispatcher?

12 MR. MORGAN: Objection.

13 Q. Do you think it's appropriate?

14 MS. JACOBS: I mean, what's the
15 objection?

16 MR. MORGAN: Well, I don't think
17 that's in evidence.

18 MS. JACOBS: Well, let's play that
19 video.

20 MR. MORGAN: Well, what -- I don't
21 think that was played with the chief.

22 MS. JACOBS: It was played with the
23 chief. It's October the 18th.

24 MR. MORGAN: Okay.

25 CHIEF WILLIAMSON: What's the time?

1 MS. JACOBS: 12:43 a.m.

2 Q. Are you watching?

3 A. I was waiting.

4 Q. Okay. Sir, as an expert in criminology, do
5 you believe that to be inappropriate conduct for a
6 lieutenant in dispatch?

7 A. I don't know of the relationship that they
8 have. I don't know that it's inappropriate or
9 appropriate.

10 Q. Is it appropriate to kiss co-workers ever?

11 A. Probably --

12 MR. MORGAN: Let me object to the
13 form.

14 A. Probably not, but if people are friends, I
15 don't know. It's -- there's -- there's such a thing as
16 a friendly kiss that's not sexual, ma'am. I -- I don't
17 know that that was, but I don't know that it wasn't
18 either.

19 Q. So if it's not sexual then, you know, you
20 could kiss anybody on the way out the door?

21 A. I -- I know somebody who I might kiss on
22 the cheek. It depends on the relationship that I have
23 with them, ma'am. I -- I wouldn't --

24 Q. A co-worker?

25 A. Sure.

1 Q. You have in your notes -- you said, what
2 are the supervisor's duties on shift, do they include
3 physical patrol.

4 Have you reviewed the job descriptions for
5 these officers?

6 A. Well, I -- I do -- I do work on my
7 reputation, and I would like to clarify that I have not
8 taken notes as you allege that I was doing something
9 illegal or improper out there --

10 Q. On your --

11 A. -- so I'd like to at least note that that
12 didn't occur.

13 Q. Okay. That's fine.

14 A. Is that correct?

15 Q. I don't know if that's correct or not.

16 A. Did you see any --

17 Q. I hear what you're saying.

18 A. -- any notes from any testimony?

19 Q. I hear -- sir, I see handwritten notes. I
20 don't know.

21 A. So do you see any notes from other
22 testimony --

23 Q. Sir --

24 A. -- from today?

25 Q. -- I'm asking the questions.

1 A. Okay.

2 Q. In your notes --

3 MR. MORGAN: Well, you made the

4 allegation.

5 MS. JACOBS: He doesn't get to ask me

6 questions. That's just --

7 MR. MORGAN: You can --

8 THE WITNESS: You have --

9 MS. JACOBS: -- the way it is.

10 MR. MORGAN: -- clarify this issue --

11 MS. JACOBS: Yeah, you can clarify --

12 MR. MORGAN: -- for this man too.

13 MS. JACOBS: -- you can clarify it

14 later.

15 Q. I don't see any notes from the hearing

16 testimony, but I don't have time to review those in

17 detail.

18 A. And you're correct, there are none.

19 Q. You do have in your handwritten notes, what

20 are the supervisor's responsibilities, does it include

21 patrol.

22 Have you reviewed the job descriptions of

23 the lieutenants?

24 A. No. These were notes that I wrote on

25 Friday --

1 Q. Okay.

2 A. -- in preparation for this.

3 Q. So if the job description does include that

4 they are to be on patrol --

5 A. Right.

6 Q. -- does that change things for you?

7 A. Well, it didn't change it. It put it in

8 perspective.

9 Q. Okay.

10 A. This was stuff that I wanted to know as I

11 was --

12 Q. Okay.

13 A. -- gathering information.

14 Q. So the perspective is that they're supposed

15 to be on patrol, right?

16 A. That's correct. Absolutely.

17 Q. Okay.

18 A. There are some supervisors who don't work

19 patrol.

20 Q. You testified before that this behavior of

21 staying in dispatch is just going to continue forever no

22 matter what, right?

23 A. That's my understanding -- that's my

24 belief, yes.

25 Q. Okay. So an email isn't going to fix it?

1 A. It may temporarily.

2 Q. It's going to fix it with these officers,
3 though, right?

4 A. I would -- I would guess that these
5 officers probably wouldn't go in dispatch again.

6 Q. Especially if they're not working, right?

7 A. Is that a comment or a question?

8 Q. That's a question. Especially if they're
9 not employed by the department anymore, right?

10 A. I would guess they wouldn't be guests in
11 dispatch.

12 Q. And you said that the responsibility for
13 the level of supervision kind of goes up the ladder,
14 right?

15 A. Absolutely.

16 Q. Okay. And you saw in the charges that
17 these two lieutenants were charged with not correcting
18 the behavior of their subordinates, correct?

19 A. I saw that, yes.

20 Q. Okay. You agree that they had a
21 responsibility to fix the behavior of these people?

22 A. If they saw some infraction of some sort do
23 they have a responsibility? Absolutely they do.

24 Q. If they see an officer sitting in dispatch
25 for three-plus hours, do you consider that to be an

1 infraction that they should be correcting?

2 A. I don't know. I -- maybe, maybe not.

3 Q. Maybe not?

4 A. Yes.

5 Q. So sometimes it's okay for officers to sit

6 in dispatch three-plus hours?

7 A. Absolutely.

8 Q. Okay. Especially when it's dangerous

9 outside, right?

10 A. Is that a question?

11 Q. Yes.

12 A. No, not when it's dangerous out. Officers

13 would be entitled to sit in dispatch to do paperwork,

14 whatever they've been authorized to do, if there are no

15 calls and they are available to respond when their unit

16 number is called on the radio.

17 That's what's below a supervisor's duty:

18 Are they available for call and did they ever miss one.

19 Q. How do we know if they missed a DUI that

20 went through town?

21 A. I don't know. There could be --

22 Q. You don't know?

23 A. -- a DUI that --

24 Q. They weren't out, were they?

25 MR. MORGAN: I'm sorry; please,

1 Mr. Juett, allow the witness to finish his answer before
2 you interrupt him.

3 MR. JUETT: Let him -- let him finish.

4 A. No, I don't know, and by the same token,
5 burglaries, suspicious subjects, things that require a
6 physical response are probably called into dispatch, and
7 it would be my understanding that those types of calls
8 would be available.

9 To compare what was called in and wasn't
10 deterred versus --

11 Q. Well, let's talk about deterrence a little
12 bit.

13 You would agree that a police presence
14 itself is a deterring factor, right?

15 A. Yes, ma'am.

16 Q. Okay. So when they are here in this
17 building -- in dispatch or upstairs, wherever they
18 are -- they're not out deterring crime, are they?

19 A. No, not actively.

20 Q. Okay. So what if there's a burglary on
21 Sunday night, okay, and that's a dispatched call, they
22 go out and take care of that, but they weren't out the
23 night before, right?

24 A. Correct.

25 Q. Okay. How do you know that because they

1 weren't out that burglar wasn't deterred from going in
2 the next night?

3 A. That's a good point. That's -- you
4 couldn't -- you couldn't know.

5 Q. Okay. You also testified that sometimes
6 it's not safe for them to be out sitting on the street,
7 right?

8 A. At times, correct.

9 Q. Okay. So it's better for them to be holed
10 up here in dispatch?

11 A. If their attention is -- is to be divided,
12 it might be, yes.

13 Q. What do you mean attention to be divided?

14 A. If they are doing paperwork, reading or
15 talking to somebody on the phone, if their attention is
16 specifically focused on one thing, then they should be
17 somewhere where it's safer so that there's nothing else
18 going on. That's -- that's how officers get killed
19 sometimes.

20 Q. Yeah. And so you don't know because you
21 haven't watched the videos, but I'll tell you on the
22 videos, when they're charged, they're not doing
23 paperwork, they're not talking to other people, they're
24 not doing work for the City. Okay?

25 A. Okay.

1 Q. So those aren't times --

2 MR. MORGAN: Object to the form --

3 Q. -- so --

4 MR. MORGAN: -- because I think -- I'm

5 sorry to interrupt -- we have seen evidence where these

6 guys were doing paperwork.

7 MS. JACOBS: We'll go back to that

8 with the guys.

9 MR. MORGAN: Okay. But the objection

10 is still there.

11 MAYOR THORNTON: Sustained.

12 Q. So if they're in dispatch and they're not

13 doing paperwork, they're not doing interviews, they're

14 not being distracted by work duties, it's not unsafe for

15 them to be out there, is it?

16 A. If they're -- would you rephrase that for

17 me?

18 Q. If they're not doing paperwork, they're not

19 doing an interview, they're not doing work on behalf of

20 the City, then it's not unsafe for them to be out on

21 patrol, is it?

22 A. It's not unsafe? I'm not sure that I'm

23 following you. I'm sorry.

24 Q. You said --

25 A. It's not unsafe?

1 Q. -- it's unsafe for them to be out.

2 A. Oh, okay. Is it -- so if they're -- if

3 they're stationary out -- out somewhere, if they're not

4 reading or talking or focused on one thing?

5 Q. (Nods head.)

6 A. I see. I -- I would advise against it --

7 staying in one place for any period of time -- only

8 because -- and I'm talking about being out on patrol,

9 being parked in one place or in a parking lot, a

10 convenience store, a bank or something like that --

11 Q. Now --

12 A. -- it's not a good idea.

13 Q. Okay.

14 A. But is it dangerous? To answer your

15 question, if they're not doing anything here and they

16 don't have a specific reason for it -- I'm not quite

17 sure I understand what you're asking me, so --

18 Q. Well, the charges are that they were in

19 dispatch, not --

20 A. Yes.

21 Q. -- doing work --

22 A. Okay.

23 Q. -- for long periods of time, right?

24 A. All right.

25 Q. You understand that, right?

1 A. Yeah, I understand.

2 Q. Okay. So if they're not doing work in
3 dispatch, they're not going to be doing work out sitting
4 in their car either, right?

5 A. If they're not doing work in dispatch --

6 Q. If there's no work to do while they're in
7 dispatch --

8 A. Okay.

9 Q. -- why would they be sitting out there
10 doing it? They should be patrolling, right?

11 A. Okay.

12 Q. Right?

13 A. Yeah, I -- I guess so.

14 Q. And you said if they're out there they're
15 just a sitting duck, right --

16 MR. MORGAN: Objection.

17 Q. -- if they're doing work?

18 A. No, I --

19 MR. MORGAN: That's a
20 mischaracterization.

21 MR. JUETT: I think he's saying if
22 they're sitting still when they're out that they're a
23 sitting duck and --

24 THE WITNESS: That's what I was trying
25 to say.

1 Q. Okay. So -- but if they're not doing
2 paperwork --

3 A. Yes.

4 Q. -- they're not a sitting duck, are they?

5 A. If they're stationary?

6 Q. Yes.

7 A. Sure they are.

8 Q. Okay. So they should be moving, right?

9 A. Well, it would be best, yes.

10 Q. Okay. They shouldn't be in here, though,
11 right?

12 A. I don't know.

13 Q. You don't know?

14 A. I -- there's no -- there's no reason for
15 them not ever to be here unless they're told, don't be
16 here, you know.

17 Q. Okay. If they're told, don't be here, they
18 shouldn't be here, right?

19 A. Oh, absolutely.

20 Q. And why did you get your ass chewed when
21 you were a patrolman for sitting in dispatch?

22 MR. MORGAN: I'm not sure that's what
23 he said, but if that's what she wants to -- language she
24 wants to use, then --

25 MS. JACOBS: That's what he said.

1 I'm -- I'm repeating his language.

2 MR. JUETT: He said got his rear end
3 chewed for being in dispatch.

4 A. I was trying -- I was trying to be polite.

5 Q. Why did you get your rear end chewed?

6 A. Because I had been in dispatch too many
7 times on a given day.

8 Q. Uh-huh.

9 A. It wasn't a pattern, but I was told to
10 leave and I left.

11 Q. Because it was wrong, right? You weren't
12 doing your job?

13 A. I wasn't doing my job? I did a pretty good
14 job at my job, ma'am, but there -- that's just -- police
15 work has an ebb and a flow to it.

16 There are times when you won't get your
17 unit called and you won't see a human being all night if
18 you work in a rural area. Sometimes in the cities it
19 looks abandoned. That's the nature --

20 Q. So is it --

21 A. -- of police work.

22 Q. -- okay then to -- to come in and -- and
23 lay back in a chair if you don't --

24 A. That's not --

25 Q. -- see anybody?

1 A. -- what you asked me. You said --
2 Q. I'm asking you that now.
3 A. Oh, you asked me that?
4 Q. Is it okay?
5 A. Is it okay to do what, lay back in a chair?
6 Q. Yeah.
7 A. Probably not.
8 Q. Okay. Your Ph.D. is not in dispatch
9 behavior, is it?
10 A. I'm not aware of a Ph.D. in dispatch
11 behavior, ma'am.
12 Q. What's your Ph.D. in?
13 A. Psychology.
14 Q. All right. In what specific --
15 A. Forensic.
16 Q. And what does that mean?
17 A. Forensic means related to the law.
18 Q. Okay. And how does that relate to this?
19 A. How does --
20 Q. How does --
21 A. -- this relate to it?
22 Q. Yes.
23 A. It -- it -- forensic is anything related to
24 the law, so any --
25 Q. So any psychology related to the law?

1 A. Anything, entomology, it could be
2 orthodontics. Anything that is related to the law is
3 considered forensic. That's the Latin term.

4 Q. Would you expect these officers to take
5 responsibility for their actions?

6 A. Sure --

7 Q. Okay.

8 A. -- with the --

9 Q. Would you expect the lieutenants to take
10 responsibility for their actions as leaders?

11 A. I would.

12 MS. JACOBS: That's all.

13 MAYOR THORNTON: Mr. Morgan, would you
14 like to redirect?

15 MR. MORGAN: In the interest of
16 brevity, no. That's all I have.

17 MAYOR THORNTON: Do any of the
18 Commissioners have questions for him?

19 MR. JUETT: Does anybody have any
20 questions?

21 COMMISSIONER GALBRAITH: No.

22 MAYOR THORNTON: You can call your
23 next witness.

24 MR. MORGAN: Okay.

25 THE WITNESS: May I be excused?

1 COMMISSIONER PERRAUT: Thanks,
2 Mr. Wallace.

3 MAYOR THORNTON: Thank you,
4 Mr. Wallace.

5 THE WITNESS: Thank you.

6 MR. MORGAN: Call Taylor Douglas.
7 I'll get her real quick. She's been in the room.

8 (Discussion off the record.)

9 **TAYLOR DOUGLAS**

10 having been first duly placed under oath, was examined
11 and testified as follows:

12 **EXAMINATION**

13 **BY MR. MORGAN:**

14 Q. Ms. Douglas, I'm sorry to make you turn --

15 MR. MORGAN: Is it okay if I stand
16 over here?

17 MR. JUETT: Sure. It's your witness
18 this time.

19 Q. Ms. Douglas, let me lead through some of
20 the preliminary stuff here.

21 MR. MORGAN: Is that all right,
22 Patsey?

23 MS. JACOBS: Yes.

24 Q. Did you used to work as a dispatcher here
25 at the Paris Police Department, ma'am?

1 A. Yes.

2 Q. Okay. Were you working here in December of
3 2015?

4 A. Yes.

5 Q. Were you working with a dispatcher named
6 Natalia Lorado?

7 A. Yes.

8 Q. Do you remember -- did you ever complain to
9 Captain Rick Elkin or hear Natalia Lorado ever
10 complain -- or make a comment for that matter -- to
11 Captain Rick Elkin about officers being in dispatch?

12 A. No.

13 Q. Specifically officers on the night of
14 December 5, officers being in the dispatch center for a
15 large portion of their shift, did you ever say anything
16 to Rick Elkin about that?

17 A. No.

18 Q. Did you ever hear Natalia Lorado --

19 A. No.

20 Q. -- complain or say anything about that?

21 A. No.

22 Q. Have you talked to Natalia Lorado since
23 December and January --

24 A. No.

25 Q. -- of this year?

1 A. (Shakes head.)

2 Q. Okay. Ma'am, have you ever complained to
3 the Paris Police Department about any inappropriate
4 conduct being done by any Paris police officer toward
5 you in dispatch?

6 A. No.

7 Q. Do you have any complaint about any of the
8 Paris police officers from your -- do you have any
9 complaint about the Paris police officers?

10 MS. JACOBS: Objection; irrelevant.
11 Whether she has complaints is not relevant to the
12 charges.

13 MR. JUETT: We'll let her -- let her
14 say. Go ahead.

15 A. No, I don't.

16 Q. Okay. Did you ever talk to Chief
17 Williams -- did he come to you or, to your knowledge,
18 did he go to dispatcher Lorado and ever ask you or her
19 about the events that took place in the dispatch room?

20 A. No.

21 Q. Did -- did Captain Elkin ever come to you
22 and ask about any events that took place in the dispatch
23 room?

24 A. No.

25 MR. MORGAN: Ms. Douglas, that's all I

1 have. Thank you, ma'am.

2

3

EXAMINATION

4

BY MS. JACOBS:

5

Q. Ms. Douglas, you are aware that there's a

6

video camera in the dispatch room, correct?

7

A. Yes. It's been there for several years.

8

Q. Okay. So all the events -- good, bad, ugly

9

or otherwise -- are recorded, right?

10

A. Correct.

11

Q. Have you talked to any of these officers

12

since you left your employment?

13

A. Have I talked to them?

14

Q. Yes.

15

A. As in just talked to them? They're my

16

friends, so yes, I've talked to them.

17

Q. So you've talked to them, and you've talked

18

to them about these charges, right?

19

A. No.

20

Q. No?

21

A. No, I haven't.

22

Q. How did you know what you were going to

23

testify to?

24

A. They asked me to come testify.

25

Q. When's the last time you talked to one of

1 them?

2 A. At dinner.

3 Q. You didn't talk about the charges at all?

4 A. No.

5 Q. You resigned as a result of a disciplinary
6 action being pursued against you, correct?

7 A. Correct.

8 MR. MORGAN: Objection.

9 MS. JACOBS: That's all.

10 MR. MORGAN: Okay. That's -- I guess
11 that's okay, but me, it's different.

12 -----

13 **RE-EXAMINATION**

14 **BY MR. MORGAN:**

15 Q. Ms. Douglas, I failed to ask, how long have
16 you known Robert Puckett?

17 A. Since May of '07.

18 Q. Okay. And is that involved in law
19 enforcement that you all have known each other, dispatch
20 and him being in -- in patrol or --

21 A. Yes.

22 Q. -- law enforcement?

23 A. (Nods head.)

24 Q. Did you take -- do you know -- have you
25 seen him or -- has he ever kissed you on the cheek,

1 ma'am?

2 A. Yes.

3 Q. Okay. And did you take offense to that?

4 A. No.

5 Q. Well, how did you interpret that display of

6 affection?

7 A. It was a friendly hug and kiss between two

8 friends.

9 Q. Okay. Have you seen him hug and draw close

10 to men?

11 A. Yes.

12 Q. Is that just the way he is?

13 A. That is the way he is.

14 MR. MORGAN: That's all I have.

15 Thanks.

16 MS. JACOBS: Nothing further.

17 MAYOR THORNTON: Can I excuse this

18 witness?

19 MR. JUETT: Yes.

20 MAYOR THORNTON: Ms. Douglas, you're

21 excused.

22 THE WITNESS: Thank you.

23 COMMISSIONER PERRAUT: Thank you,

24 Ms. Douglas.

25 MAYOR THORNTON: Do you want to call

1 your next witness?

2 MR. WHITLEY: Kevin Anderson.

3 MR. MORGAN: How do you want this to
4 work here, Mayor? Do you want -- I mean, the chief sat
5 next to his lawyer. Is that okay if the witness
6 stays --

7 MAYOR THORNTON: Sure.

8 MR. MORGAN: -- right here?

9 MAYOR THORNTON: You're absolutely --
10 that's fine.

11 MR. MORGAN: So long as you can hear.

12 MAYOR THORNTON: I think it would be
13 easier.

14 MR. MORGAN: Thank you.

15 **KEVIN ROBERT ANDERSON**

16 having been first duly placed under oath, was examined
17 and testified as follows:

18 **EXAMINATION**

19 **BY MR. WHITLEY:**

20 Q. Can you state your name for the record?

21 A. My name is Kevin Robert Anderson.

22 Q. Just a little background information about
23 you.

24 Where were you raised?

25 A. I was raised here in Paris.

1 Q. Graduate school?

2 A. Bourbon County High School in 2000.

3 Q. How long have you been in Paris?

4 A. The majority -- good part of my life, sir.

5 Q. All right. Let's talk a little about

6 your -- your work experience.

7 I guess, where are you currently employed?

8 A. The City of Paris, with the police

9 department.

10 Q. How long have you been with the Paris

11 Police Department?

12 A. Around ten or eleven years, sir.

13 Q. Did you have any kind of employment in law

14 enforcement before you became a Paris police officer?

15 A. No, sir. Prior to coming to work for the

16 City of Paris Police Department I went to Eastern

17 Kentucky University straight out of high school, got my

18 degree in police administration.

19 Q. Now, why did you seek employment with the

20 Paris Police Department?

21 A. When I started college I went through a

22 program called Kentucky Police Corps. What it was was a

23 program designed to get college-educated students

24 towards other police agencies.

25 I initially decided I was going to go to

1 college during my senior year of high school. A friend
2 of mine brought me the information about the Police
3 Corps, and I spoke with then-Chief Teddy Florence about
4 signing up.

5 I did the initial process with the Police
6 Corps and was initially signed my freshman year of
7 college.

8 The Police Corps told me that at that time
9 they would like to see my grades for the first school
10 year and then after they would pick me up if the City of
11 Paris would, which the City of Paris agreed to.

12 It's home. This is where I live. This is
13 where I want to work.

14 Q. A little bit of background about your
15 academy.

16 Did you attend basic academy?

17 A. Like I said, I attended the Kentucky Police
18 Corps. What it was is it was an academy that was still
19 taught through the Department of Criminal Justice
20 Training at Richmond, but it was kind of separate.

21 I attended a 23-week, 1,290-hour training.
22 At that same time the basic academy was 16 weeks, 660
23 hours.

24 Q. All right. Well, let's -- let's talk about
25 your -- I guess your current job before you were

1 suspended.

2 Are you ready to talk about that for a
3 little bit?

4 A. Yes, sir.

5 Q. Now, I guess you talked about earlier that
6 you grew up in Paris.

7 Are you kind of familiar with the good
8 areas versus the bad areas?

9 A. Yes, sir. Like I said, I've worked for the
10 City for ten or eleven years and, like I said, I've
11 lived here my whole life, so I know, you know, where our
12 trouble spots are and what are some of our calmer areas.

13 Q. Now, what -- what shift do you work?

14 A. Third shift.

15 Q. What time is that usually?

16 A. Right now I work an eight-hour shift. I
17 work from 11:00 to 7:00 Tuesday through Saturday.

18 Q. Now, let's -- let's get to why we're here
19 today. We're going to talk a little about this
20 dispatch. All right?

21 A. Yes, sir.

22 Q. Now, when you're typically riding around
23 your beat and you're not doing anything, what do you
24 typically do?

25 A. Well, after I've done some zone checks, if

1 there's no calls or activities and, you know, it's kind
2 of that time of night when things start to slow down, I
3 would either find somewhere and park or sometimes come
4 to dispatch.

5 Q. Now, when you said you sometimes come to
6 dispatch, why would you go back to dispatch?

7 A. Well, sir, generally for Paris, you know,
8 activity and things of that nature die down by around
9 2:00 in the morning.

10 That's a good time for me to get something
11 to eat, because where I work third shift we only have
12 four gas stations and a Walmart that's open.

13 The dispatch center has a refrigerator,
14 microwave, things of that nature, to where we can cook
15 our food, and I'll catch up on my paperwork, other
16 activities, and yes, sir, I will hang out.

17 Q. Now, when you said you were hanging out,
18 was there a rule in place about hanging out in dispatch?

19 A. No, sir, not at that time.

20 Q. At what time were you put on notice to get
21 out of dispatch?

22 A. On December 8 I received an email from the
23 Assistant Chief Best stating, stay out of dispatch, and
24 upon receiving that email I complied with it.

25 Q. Well, when you say complied with it, would

1 you say -- how would you characterize that?

2 A. Well, sir, I was told we could go in for
3 short visits to get our paperwork or to eat. I think
4 only one time after that came out that I actually ate in
5 there, because I didn't want to get in trouble.

6 So I usually would bring sandwich items,
7 things like that, but if you see my silver water jug
8 down there, I drink water religiously. And they have a
9 water cooler in dispatch, so lots of times I fill up my
10 jug, so I'm in and -- but I would be in and out of there
11 very quickly.

12 Q. Now, during the month of December were you
13 ever reprimanded by any of the officers about being in
14 dispatch?

15 A. No, sir, I was not.

16 Q. What about the month of January?

17 A. No, sir, I was not.

18 Q. During the month of January did you still
19 hang out in the dispatch area?

20 A. No, sir, I did not.

21 Q. All right. Now, let's talk a little bit
22 about -- I think I heard the chief testify about you
23 being a supervisor?

24 COURT REPORTER: I'm sorry; would you
25 start over? I didn't hear you.

1 MR. WHITLEY: I'm sorry.

2 Q. Let's talk about your, I guess, unofficial
3 supervisory role.

4 A. Yes, sir. On the shift back then that I
5 worked I worked opposite of Lieutenant Puckett, so
6 basically if I was working he was not -- except for one
7 day a week we had an overlap.

8 So on the days when the lieutenant was not
9 present and the second shift lieutenant had went home,
10 then I became officer in charge.

11 Generally that would be anywhere from about
12 12:00 in the morning to 2:00 in the morning, after the
13 second shift supervisor would go home.

14 Q. Okay. Now, during your time of being the
15 officer in charge did you notice any of the other
16 officers in the dispatch center?

17 A. Yes, sir, I did.

18 Q. What did you do at that time to correct the
19 behavior?

20 A. Sir, at that time it wasn't a problem, so I
21 didn't correct the behavior.

22 Q. After that email went out on December 8,
23 did you -- did you try to correct their behavior?

24 A. Yes, sir. It was discussed at subsequent
25 roll calls after the 8th not to be in dispatch. The

1 second shift lieutenant that I worked with addressed it
2 at roll call, so the officers that I was technically in
3 charge of, you know, also heard this as well.

4 And then periodically throughout the week I
5 would -- or my shift, I would drive through just to make
6 sure that there weren't any cars sitting down there.

7 Q. And was there -- were there cars still
8 sitting around dispatch?

9 A. No, sir.

10 Q. Let's talk about this time card
11 discrepancy.

12 Are you aware that there's an issue with
13 your time card?

14 A. Yes, sir. The initial question --
15 questionnaire I had gotten from the chief asked me to
16 clarify October 19 of 2015. It said that I had worked
17 nine hours and claimed ten hours on my time card.

18 At that time, with our written responses
19 that we gave to him that Monday morning, I gave him the
20 documentation that showed on my time card and radio
21 history that I, in fact, was not working that day and
22 did not put ten hours on my time card.

23 Once I received my charges that date had
24 been changed to the 9th of October.

25 Q. And what was going on the 9th of October?

1 A. Well, sir, on September 22, I had brought
2 my cruiser in to get an oil change. Where I work third
3 shift we have to bring our cars in to get the oil
4 changed or we have to take all of our equipment out,
5 swap them out, take a pool car home, so to me, it was
6 just as easy to bring my car in, get it changed and go
7 back home.

8 During the week of the 22nd of September, I
9 had forgot to schedule adjust my hour out. When I
10 remembered that I had not taken that hour it was on the
11 9th of October, and so that morning I did leave at 6:00
12 in the morning instead of 7:00 because I took the hour
13 of time off that I had used for my oil change.

14 Q. Do you have proof to verify that?

15 A. Yes, sir. I have a copy of the service
16 record history for my cruiser, which shows September 22
17 I went to Paris Quick Lube, which is the -- used to be
18 Dotson Quick Lube there by Hume Bedford Road.

19 MR. WHITLEY: I lost track of what
20 exhibit number we're on.

21 COURT REPORTER: You're on 10.

22 MR. WHITLEY: 10. I guess for the
23 record I have a color copy in blue for the tribunal and
24 I have some black-and-white copies as well.

25 (Defendants' Exhibit No. 10 was marked

1 for identification.)

2 Q. So you were talking about you got an oil
3 change.

4 Is that on the clock?

5 A. Well, yes, sir.

6 Q. All right. So that was your explanation
7 for the October 9 time card discrepancy?

8 A. Yes, sir.

9 Q. Now, did anyone speak to you about this
10 before February the 8th?

11 A. No, sir, they did not.

12 Q. Did your chief come and talk to you about
13 this issue?

14 A. No, sir, he did not.

15 Q. At what time did this time card issue come
16 to your attention?

17 A. When we were served the paperwork on
18 February 5.

19 Q. Now, let's talk about -- go back to this
20 dispatch.

21 Do you think that's the best place for you
22 to hang out?

23 A. To me, it is a good, safe place to be, but
24 probably not to the extent that I did.

25 Q. Now, now that this was brought to your

1 attention, I guess you've already corrected it?

2 A. Yes, sir.

3 Q. If you have the ability to keep your job,
4 will you promise this Commission that you will stay out
5 of this dispatch area?

6 A. Absolutely, sir. I mean, upon receiving
7 the email that it was a problem I took the corrective
8 measures to ensure that I didn't violate, you know, the
9 email.

10 And, you know, now it's -- I've not had any
11 disciplinary actions in my file and, you know, now it's
12 come to termination.

13 Q. Now, you realize that being in dispatch,
14 you know, it's not being the most efficient way to earn
15 a dollar, correct?

16 A. Yes, sir.

17 Q. Has there ever been a time for the City of
18 Paris you helped them out financially?

19 A. Yes.

20 MS. JACOBS: Objection; irrelevant.

21 MR. JUETT: Let him --

22 COURT REPORTER: I'm sorry; I
23 didn't --

24 MR. JUETT: Let him go ahead.

25 THE WITNESS: I can answer, sir?

1 MR. JUETT: Yes.

2 THE WITNESS: Okay. Thank you.

3 A. I believe it was in 2007 the City had
4 ordered several cruisers, and over the years
5 subsequently as well I used to do the wiring on the
6 cruisers -- myself and Terry Pollock and Jeff Wiser.

7 When I say wire them up I'm talking about
8 taking them from a basic, plain-Jane car that you get
9 from the dealership to the complete package car that you
10 see on the street.

11 I done this while on duty for the City and
12 I -- I got paid during my time -- don't get me wrong --
13 but I'd say it was probably a lot cheaper than if they
14 had had the vehicles outfitted by like L & W, I believe,
15 now.

16 Q. Now, have you had the opportunity to review
17 how many times you responded to calls during the months
18 of October through December?

19 A. Yes, I have.

20 Q. Do you have those numbers for this --

21 A. It was -- I believe it was just shy of
22 400 --

23 Q. Okay.

24 A. -- 397 calls or incidents where I was the
25 responsible officer during those months.

1 Q. And how many times have you assisted other
2 officers during this time -- this three-month time?

3 A. I assisted 56 times, but I can personally
4 say -- it's not the best practice at times, but I don't
5 always call out -- like if somebody is on a traffic stop
6 and you can tell they're just about done or something
7 like that, I'll ease up, turn my stuff on and, you know,
8 then clear the call after they're done, so it is more
9 than 56 times.

10 Q. So are you saying there are times where you
11 didn't always log correctly things in the radio log?

12 A. Yes, sir.

13 Q. Now, have you ever been disciplined for not
14 using your radio log correctly?

15 A. No, sir. Like I said, I haven't had any
16 disciplinary actions in my time here.

17 Q. Now, some silly questions.

18 Have you ever made an arrest?

19 A. Yes, sir, I have made arrests.

20 Q. Do you ever go to court and testify?

21 A. Yes, I do.

22 Q. At the conclusion of your arrest has anyone
23 ever gone to prison?

24 A. Yes.

25 COURT REPORTER: I'm sorry; could you

1 say that again? I didn't hear you.

2 Q. Gone to prison?

3 A. Yes, they have. In 2009, I believe -- I
4 was a detective at the time for the City -- I worked a
5 murder case and ended up testifying in circuit court in
6 which the suspect was found guilty.

7 Q. Have you ever been recognized for your hard
8 work as a Paris police officer?

9 A. Yes, sir. I've had several commendations
10 and awards that have been given to me for my acts in the
11 line of duty and for my investigations and things like
12 that.

13 Q. Let's talk about a couple of those.

14 What are some of those that come to mind?
15 I'm sorry.

16 A. One of my more recent ones I was awarded
17 officer of the month for the month of August of 2015.
18 There was a robbery at the Shoe Show here in Paris. I
19 was the primary vehicle or -- well, let me back up. I
20 apologize.

21 I first caught up to the vehicle on
22 Lexington Road just past the golf course. A pursuit
23 ensued, at which time it led to I-75 in Lexington.

24 At that time myself and Officer Bholat gave
25 chase to a suspect who was carrying a handgun running

1 across the Interstate. We chased the subject as far as
2 we could, and he went through a tree line to where we
3 lost visibility of him.

4 At that point in time it was -- it's in our
5 training to stop and mark that location because K-9 can
6 then track, at which time which contacted Lexington.
7 They brought their K-9 out, and they were subsequently
8 able to track the guy to a house and make an arrest on
9 the robbery.

10 Q. What's the highest honor you've ever
11 received as an officer?

12 A. I'm sorry.

13 MR. JUETT: Take a minute.

14 A. In 2012 I was given the Medal of Valor for
15 actions in the line of duty. I can't say it.

16 Q. It's okay. Now, you understand what's at
17 stake here, don't you?

18 A. Yes, sir.

19 Q. I guess in your own words -- the lawyers
20 and I, we've been arguing and we've been talking -- in
21 your own words, what is it that you're asking this board
22 to do?

23 A. I want my job back and I want to work for
24 the City and continue to do the same thing that I've
25 done for the last ten years. I want to make it. I want

1 to come back to work.

2 MR. WHITLEY: No other questions.

3 -----

4 **EXAMINATION**

5 **BY MS. JACOBS:**

6 Q. Officer Anderson, you --

7 MR. MORGAN: Can you give me just a
8 second, ma'am?

9 MS. JACOBS: Yeah, sure.

10 MR. MORGAN: Thank you. What do you
11 want to do with this?

12 MR. WHITLEY: I want to introduce
13 these awards and recognitions.

14 MR. MORGAN: Do you have any objection
15 to that?

16 MS. JACOBS: No.

17 MR. MORGAN: That will be Exhibit 12?

18 COURT REPORTER: 11.

19 MR. MORGAN: I apologize.

20 (Defendants' Exhibit No. 11 was marked
21 for identification.)

22 MR. MORGAN: I'm sorry, ma'am. You
23 can go ahead now.

24 Q. Are you ready?

25 A. Yes, ma'am.

1 Q. Have you viewed the videos with respect to
2 the time that you were noted to be in dispatch?

3 A. I've seen the ones that are in here, ma'am.

4 Q. You didn't look at any of them before
5 coming on Monday?

6 A. No, ma'am.

7 Q. So you don't have any -- any way or reason
8 to disagree that in October you spent 28.02 percent of
9 your time in dispatch, do you?

10 A. Ma'am, I -- I can give you the same
11 explanations for all three months. I can't give you
12 specifics or exacts, no, ma'am.

13 Q. Okay.

14 A. There were times I'd do my paperwork in
15 dispatch. I'm a pretty tall guy, and sitting in my
16 cruiser typing just doesn't work well for me.

17 Q. And your paperwork is done on your MDT; is
18 that right?

19 A. Yes, ma'am. I'm --

20 Q. You bring --

21 A. -- I'm a lucky one. I've got a battery on
22 my MDT that will actually work when you take it out of
23 the cruiser, because some of them you have to have a
24 cord, and I don't.

25 Q. Do you ever bring your personal computer

1 into the office to work on?

2 A. I may have, ma'am. I can't say.

3 Q. Okay. For -- but -- so that's not official
4 business that you do work --

5 A. I -- I don't --

6 Q. -- on your personal computer?

7 A. -- recall bringing my personal laptop in,
8 but I can't say that I didn't in three months, ma'am.

9 Q. And -- and again, you can't dispute that in
10 November you spent 39.13 percent of your time in
11 dispatch, can you?

12 A. No, ma'am. Like I said, there's times I do
13 paperwork, there's times I eat, and yes, ma'am, there
14 are times I've been out there -- in there and hung out.

15 Q. Okay. When you responded to the chief's
16 questions did you express any remorse for being --
17 hanging out in dispatch?

18 You saw all these numbers at that time,
19 right?

20 A. Yes, ma'am. I put in the questions that I
21 could not give specific answers for every date that he
22 was requiring of me. I don't recall what I was doing
23 every single day.

24 I mean, if I went through the video day by
25 day by day I might be able to, but he gave me 48 hours

1 notice, and that's the best answer I could give him.

2 Q. But just in general, looking at, say -- say
3 November the 30th, and it says you were in dispatch for
4 four hours and fifty-six minutes, right?

5 A. Give me just a second to pull that up,
6 ma'am. What date did you say again?

7 Q. November the 30th.

8 A. Yes, ma'am, it says I was in there at two
9 different times for four hours and fifty-six minutes.

10 Q. Okay. So when you looked at that over the
11 48 hours -- that weekend you had -- did you look at that
12 and say, oh, my gosh, what have I done?

13 A. Like I said, ma'am, I didn't say I was
14 perfect. I could have been doing case work, I could
15 have ate, and I could have been hanging out. I'm not
16 denying that.

17 Q. Okay. And you agree that it's -- it's
18 inefficient use of your time just to hang out in
19 dispatch, right?

20 A. It's not the best use of my time, you are
21 correct, ma'am.

22 Q. And your job is to patrol the streets,
23 right?

24 A. Among other things. There are times for
25 patrol, yes, ma'am.

1 Q. You've seen the job descriptions we have
2 circulated around several times, right?

3 A. Yes, ma'am.

4 Q. And in fact, the first thing it says is
5 patrol, right?

6 A. Yes, ma'am.

7 Q. And so when you're in dispatch for four
8 hours and fifty-six minutes, you don't know what's going
9 on on the streets, do you?

10 A. Well, ma'am, like I said, I didn't say it
11 was an efficient use of my time, no.

12 Q. So the answer is no, you don't know what
13 was going on?

14 A. No, ma'am. When I was in dispatch I cannot
15 say what was going on on the street.

16 Q. Of the 400 or so -- whatever -- calls you
17 said that you took or responded to or participated in
18 over those months, you don't have any way of knowing how
19 many crimes occurred while you were in dispatch that you
20 missed, do you?

21 A. And I don't know how many crimes that
22 didn't occur while I was in dispatch.

23 Q. Okay. And you never told the people --
24 your subordinates -- to get out and patrol, did you?

25 A. No, ma'am. Like I said, at that time it

1 wasn't an issue.

2 Q. But it was an issue that they weren't doing
3 their job, right?

4 A. Ma'am, like I said, we have downtime that
5 we eat and we do other things.

6 Q. Other things meaning hanging out in
7 dispatch?

8 A. Yes, ma'am, like I said, hanging out,
9 eating, doing paperwork, things of that nature.

10 Q. Okay. So if you're doing --

11 A. And no, it was not a problem then. Now,
12 once the email came out I corrected it.

13 Q. But the problem wasn't that you -- you
14 hadn't been told about it; the problem is that you and
15 your guys weren't on the street, right?

16 MR. MORGAN: Objection.

17 MS. JACOBS: You can answer that
18 question.

19 MR. MORGAN: Well, no, I think the
20 hearing officer needs to say something first, but the
21 objection here is, she's -- she's -- I think that it's
22 fair to say that the problem is that when this email
23 went out, whether this officer corrected his behavior or
24 not and whether he instructed others to do so or not.

25 And what's being said here is, no, the

1 problem is that before the video -- before the email
2 goes out these guys are all hanging around in dispatch.
3 It's a mischaracterization of the issue before this
4 Commission.

5 MS. JACOBS: Actually, it's exactly
6 the issue before this Commission.

7 MR. MORGAN: The issue is whether the
8 discipline is effective, whether these guys warrant --
9 whether they committed this --

10 MR. JUETT: Well --

11 MR. MORGAN: -- and whether they need
12 to be fired, and part of 2-A -- part of the second
13 question -- is, did they act accordingly when they got
14 notice on that email.

15 MS. JACOBS: I'm entitled to ask him
16 the question about what happened before.

17 MR. JUETT: I agree.

18 Q. So the charges against you and against the
19 others, right, efficiency -- you've seen that, right?

20 A. Yes, ma'am.

21 Q. And you've admitted that your use of time
22 was inefficient on occasion, correct?

23 A. On occasion, yes, ma'am.

24 Q. And you've admitted that you did not
25 instruct those people under your supervision to be more

1 efficient in their use of time either, correct?

2 A. And I didn't see --

3 MR. MORGAN: Asked and answered.

4 A. -- that as an inefficiency because at the
5 time --

6 COURT REPORTER: I'm sorry; could you
7 start over again? I didn't hear your answer.

8 THE WITNESS: Yes, ma'am.

9 A. I didn't see their time as inefficient
10 before the email because it was not an issue. We had
11 not been told to stay out of there up to that point, and
12 once the email came out we corrected the behavior.

13 Q. Sir, I'm not asking about whether you --
14 let me strike that.

15 What I'm asking about is, was it efficient
16 use of your subordinates' time even before the email for
17 them to be in dispatch for two or three hours?

18 A. Ma'am, I guess that would depend upon what
19 they was doing.

20 Q. Okay. If we watch video and we see them
21 just sitting, is that an efficient use of their time?

22 A. No, ma'am.

23 Q. And you failed to correct that behavior,
24 correct?

25 MR. WHITLEY: He's already asked --

1 I'm going to object because he's already asked and
2 answered that question several times.

3 MR. JUETT: Sustained.

4 Q. Did you say you graduated from the academy
5 or from Eastern?

6 A. I graduated from Eastern Kentucky
7 University in 2004, and directly after I went to the
8 academy -- about a month later.

9 Q. Okay. And did you complete the academy
10 course?

11 A. Yes, ma'am.

12 Q. Did you take an oath at the end of that?

13 A. Yes, ma'am, I took an oath at the City of
14 Paris.

15 Q. What did that oath say?

16 A. Ma'am, I don't have that document in front
17 of me.

18 Q. Do you remember?

19 A. No, ma'am, I do not.

20 MR. MORGAN: Which oath, Ms. Jacobs?

21 Q. How many oaths did you take?

22 A. Two, ma'am.

23 Q. One for the academy and one for the City?

24 A. No, ma'am, I took an oath for the City in
25 2004 and then I took it again in 2014.

1 Q. Okay. Is this the oath that you took in
2 2014?

3 A. Yes, ma'am, it is.

4 Q. And you signed that, right?

5 A. Yes, I did.

6 Q. Okay. And among other things, like not
7 fighting a deadly duel or acting as a second, it says
8 you will be faithful and true to the Commonwealth and
9 faithfully execute, to the best of my ability, the
10 office of police officer according to law.

11 Do you remember taking that oath?

12 A. Yes, ma'am.

13 MS. JACOBS: That's all I have.

14 MAYOR THORNTON: Mr. Whitley, do you
15 need to redirect?

16 MR. WHITLEY: Yeah. Yeah. Yeah.

17 -----

18 **RE-EXAMINATION**

19 **BY MR. WHITLEY:**

20 Q. You -- you've just been questioned about
21 this oath you took.

22 A. Yes, sir. Yes.

23 Q. Do you take that oath seriously?

24 A. Yes, I do. I mean --

25 Q. You've been an officer how long again?

1 A. A total of 11 years.

2 Q. And in those 11 years did you work hard?

3 A. Yes, sir, I have.

4 Q. Did you -- did you protect the citizens?

5 A. Yes, I have.

6 Q. Now, if we're talking about a few instances

7 where you were in dispatch, beyond that, did you do your

8 job hard?

9 A. Yes, sir, I have.

10 Q. Did you do that job well?

11 A. I believe I have.

12 Q. You talked about the Citation of Valor.

13 A. Yes.

14 Q. Let's get into the details about that a

15 little bit.

16 MS. JACOBS: That -- that's beyond the

17 scope of the redirect.

18 MR. WHITLEY: You questioned his oath

19 and his work ethic and his efficiency. Let's talk about

20 when he put his life on the line for this department.

21 MS. JACOBS: It's beyond the scope.

22 THE WITNESS: If you all would allow

23 it --

24 MS. JACOBS: We got into that he

25 got --

1 THE WITNESS: -- I'd like to talk
2 about it.

3 MS. JACOBS: -- the medal.

4 MR. JUETT: It's noted.

5 MR. WHITLEY: It's not just the medal.

6 COURT REPORTER: I'm sorry; I didn't
7 hear you.

8 COMMISSIONER PERRAUT: Noted.

9 MR. JUETT: It's noted. We'll let him
10 go ahead and testify.

11 Q. Talk about it.

12 A. Can I talk about it? In July of 2012 I
13 responded to a domestic in progress on Hanson Street.
14 Upon arrival I engaged a subject with a knife.

15 I was able to talk the subject out of the
16 knife by giving him various verbal commands, and once he
17 dropped the knife a fight ensued.

18 During the -- during the fight the subject
19 picked me up off the ground and slammed me to the
20 ground, pinning himself on top of me. Basically he was
21 sitting on my chest. He was -- give or take -- 315
22 pounds.

23 We fought over my baton and he was able to
24 get it from me, and as he started to use the baton on me
25 I took his life, and if that doesn't meet up to the oath

1 of my responsibility, I don't know what does.

2 MR. WHITLEY: Move to introduce that
3 certificate he earned.

4 (Defendants' Exhibit No. 12 was marked
5 for identification.)

6 MS. JACOBS: Was it not part of the
7 packet?

8 MR. WHITLEY: No.

9 Q. Well --

10 COURT REPORTER: Hold on one second.

11 Q. Ready?

12 A. Yes, sir.

13 Q. Now, you've heard the chief talk about this
14 complaint about the dispatch on December the 5th.

15 A. Yes, sir, from Natalia Lorado.

16 Q. Did you have an opportunity to talk to
17 Ms. Lorado?

18 A. Yes, sir, I did.

19 Q. Did you talk to her about her complaint
20 against you all in that dispatch room?

21 A. Yes, sir, I did.

22 Q. What did she tell you?

23 A. She told me that she never made a complaint
24 on us for siting in dispatch that evening or for her
25 having to sit in a metal chair.

1 She stated that she had made a complaint
2 against another dispatcher but that she had never
3 brought up anything related to why this investigation
4 began.

5 MR. WHITLEY: No further questions.

6 MS. JACOBS: I don't have anything
7 further.

8 MAYOR THORNTON: You may excuse the
9 witness and call your next one.

10 **ABDULLAH BHOLAT**

11 having been first duly placed under oath, was examined
12 and testified as follows:

13 **EXAMINATION**

14 **BY MR. WHITLEY:**

15 Q. Will you state your name for the record?

16 A. Abdullah Bholat.

17 MR. WHITLEY: Actually, before we
18 begin, I think that -- I wanted to make sure we're all
19 clear on the charges against Mr. Bholat.

20 I think we talked about the November 5
21 incident -- I think on the chief's cross --

22 CHIEF WILLIAMS: Yes, sir.

23 MR. WHITLEY: -- whether he agreed or
24 not, and he agreed to take that out of the complaint.

25 CHIEF WILLIAMS: That's correct, sir.

1 MR. WHITLEY: Is that okay with
2 everyone?

3 MS. JACOBS: That's fine.

4 MR. WHITLEY: We also talked about the
5 incident that occurred on January the 9th and January
6 the 14th. I made some objections, and I think we agreed
7 to take that out of the report as well.

8 MR. BEAUMAN: I'm sorry; I was trying
9 to write down the first one.

10 MR. WHITLEY: It's -- if you -- if you
11 go down to November --

12 MR. BEAUMAN: So 11/5 is the one
13 that's out. Is that correct?

14 CHIEF WILLIAMS: Correct.

15 MR. WHITLEY: Yes.

16 MR. BEAUMAN: Okay. All right. I'm
17 sorry; I'm just trying to get it all --

18 MR. WHITLEY: And then right
19 underneath that is January the 9th and January the 14th.

20 MS. JACOBS: That's correct.

21 MR. BEAUMAN: No, these --

22 MR. WHITLEY: He's saying no, you're
23 saying yes.

24 MR. BEAUMAN: No. No, we just didn't
25 use the memo.

1 MR. WHITLEY: Well, there was no
2 testimony on it. We -- we didn't talk about that at
3 all.

4 Q. Okay. State your name for the record.

5 A. Abdullah Bholat.

6 Q. I guess, can you tell us a little bit about
7 where you were raised and what -- what school you went
8 to -- high school?

9 A. Well, for the most part I was raised in
10 California; however, I went to school here off and on
11 throughout middle and high school, and then my senior
12 year of high school I completed school here in Bourbon
13 County. I graduated in 2008 from Bourbon County High
14 School.

15 Q. How long have you been living here in
16 Paris?

17 A. Continuously since 2007 -- August of 2007.

18 Q. Where are you currently employed?

19 A. By the Paris Police Department, City of
20 Paris.

21 Q. And how long have you been employed with
22 the Paris Police Department?

23 A. As a police officer I've been employed
24 since January of 2012.

25 Q. Beyond being a police officer, do you have

1 any other experience as a -- in law enforcement?

2 A. When I started -- or when I moved back to
3 Kentucky in 2007 I started with the Police Explorer
4 Program that was currently at the police department at
5 that time.

6 Q. What is that Police Explorer Program? I'm
7 not familiar with that.

8 A. The Police Explorer Program is basically a
9 program for high school-aged individuals up to the age
10 of 21 that are interested in law enforcement.

11 Throughout that program we learned a little
12 bit about the police department, how -- what police work
13 is like, things like that.

14 I went on numerous ride-alongs -- more than
15 I can count -- participated in competitions against
16 other Explorer posts, represented the department both
17 locally and nationally.

18 Q. So why did you ultimately seek employment
19 with the Paris Police Department?

20 A. As soon as I moved to -- to Paris I got
21 involved with this police department, and I -- I knew
22 from that point when I turned 21 this is where I wanted
23 to work.

24 I -- I was a Police Explorer here, stayed
25 here until I was 21, then became an advisor for the post